

FINAL AGENDA

*** A M E N D E D**

REGULAR COUNCIL MEETING
TUESDAY
JUNE 2, 2015

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.

4:00 P.M. MEETING

Individual Items on the 4:00 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.

1. CALL TO ORDER

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means .

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

A. Opening Flag Ceremony by Boy Scout Troop 7036

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration and Approval of Minutes:** City Council Special Meeting (Executive Session) of March 31, 2015; Regular Meeting of May 5, 2015; and Special Meeting (Executive Session) of May 26, 2015.

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. PROCLAMATIONS AND RECOGNITIONS

None

7. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body..., pursuant to A.R.S. §38-431.03(A)(1).

None

8. LIQUOR LICENSE PUBLIC HEARINGS

- A. Consideration and Action on Liquor License Application:** Andrea Lewkowitz, "Drury Inn & Suites - Flagstaff", 300 S. Milton, Series 11 (Hotel/Motel), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

9. CONSENT ITEMS

All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

- A. Consideration and Approval of (Confirming) Payment:** Reimbursement payment to W.L. Gore and Associates for oversizing of new public waterline. (***Waterline reimbursement as agreed in pre-annexation agreement with W.L. Gore and Associates***).

RECOMMENDED ACTION:

Approve reimbursement payment to WL Gore and Associates in the amount of \$356,440.53.

- B. Consideration and Approval of Contract:** Consideration and Approval of Contract: Construction Manager at Risk Construction Contract for Street Maintenance Program 2015 - Phase 2 with C and E Paving and Grading, LLC in the amount of \$2,904,883.71 (***Street Maintenance Program 2015***).

RECOMMENDED ACTION:

- 1) Approve the Construction Manager at Risk Construction Contract with C and E Paving and Grading, LLC in an amount not to exceed \$2,904,883.71 for Guaranteed Maximum Price (GMP).
- 2) Authorize Change Order Authority of 5% for GMP3 in the amount of \$ 145,244.19, to cover potential costs associated with unanticipated or additional items of work.
- 3) Authorize the City Manager to execute the necessary documents

- C. Consideration and Approval of Contract:** Contract with Southwest Tank and Steel, Inc. in the amount of \$249,178.00 (***Cheshire Water Tank Rehabilitation***).

RECOMMENDED ACTION:

- 1) Approve construction contract with Southwest Tank and Steel, Inc. in the amount of \$249,178 (includes a \$10,000 contingency allowance) and a contract time of 90 calendar days.
- 2) Approve Contract Change Authority to the City Manager in the amount of \$24,917.80 (10% of the contract amount, less allowance).
- 3) Authorize the City Manager to execute the necessary documents

- D. Consideration and Approval of Cooperative Contract:** Purchase of one (1) 906H2 Compact Wheel Loader on a National IPA cooperative purchase agreement with the City of Tucson-Bid#12077 (***Approve purchase of 906H2 Compact Wheel Loader from Empire Machinery in the amount of \$86,106.25***).

RECOMMENDED ACTION:

Approve the purchase of one (1) 906H2 Compact Wheel Loader from Empire Machinery through a National IPA cooperative purchase agreement with the City of Tucson, AZ for the amount of \$86,106.25 (tax and freight included).

10. ROUTINE ITEMS

- A. **Consideration and Approval of Contract:** Construction contract with TSG Constructors, LLC in the amount of \$1,540,765.00 (***Bushmaster Park Improvement Project***)

RECOMMENDED ACTION:

- 1) Approve the construction contract with TSG Constructors, LLC in the amount of \$1,540,765.00 (which includes a \$59,265 contract allowance) and a contract time of 120 calendar days;
- 2) Approve Change Order Authority to the City Manager in the amount of \$122,160.00 (8% of the contract amount);
- 3) Authorize the City Manager to execute the necessary documents

- B. **Consideration and Adoption of Ordinance No. 2015-10:** An ordinance of the Flagstaff City Council authorizing the City of Flagstaff to accept specific deeds of real property and easements and providing for the repeal of conflicting ordinances, severability, and authority for clerical corrections, and establishing an effective date (***Adopt ordinance authorizing acceptance of real property deeds and easements***).

RECOMMENDED ACTION:

- 1) Read Ordinance No. 2015-10 by title only for the final time
- 2) City Clerk reads Ordinance No. 2015-10 by title only (if approved above)
- 3) Adopt Ordinance No. 2015-10

- C. **Consideration and Adoption of Resolution 2015-17 and Ordinance No. 2015-07:** A resolution of the Flagstaff City Council declaring the Revised Stormwater Utility Credit Manual a public record and an ordinance adopting the Revised Stormwater Utility Credit Manual by reference. (***Updates and revisions to Stormwater Utility Credit Manual***)

RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2015-17
- 2) Read Ordinance No. 2015-07 by title only for the final time
- 3) City Clerk reads Ordinance No. 2015-07 by title only for the final time (if approved above)
- 4) Adopt Ordinance No. 2015-07

- D. **Consideration and Adoption of Resolution No. 2015-18 and Ordinance No. 2015-09:** A resolution and ordinance of the Flagstaff City Council adopting by reference revised sewer discharge limitations. (***Updates and revisions to local limits for industrial sewer discharge***)

RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2015-18
- 2) Read Ordinance No. 2015-09 by title only for the final time
- 3) City Clerk reads Ordinance No. 2015-09 by title only for the final time (if approved above)
- 4) Adopt Ordinance No. 2015-09

- E. **Consideration and Adoption of Resolution No. 2015-21:** A resolution of the City Council of the City of Flagstaff, Coconino County, Arizona, declaring official and adopting the results of the Special Election held on May 19, 2015. (***Results for Election on Changes to City Charter***)

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-21 by title only
- 2) City Clerk reads Resolution No. 2015-21 by title only (if approved above)
- 2) Adopt Resolution No. 2015-21

- F. **Consideration and Approval of Intergovernmental Agreement:** Intergovernmental Agreement/Joint Project Agreement (IGA/JPA) 11-085 between the State of Arizona and the City of Flagstaff acting for and on behalf of the Flagstaff Metropolitan Planning Organization, Amendment 4 for Fiscal Year 2016 (***Annual Update of FMPO IPA/JPA***)

RECOMMENDED ACTION:

- Approve IGA/JPA 11-085 Amendment 4

- G. **Consideration and Adoption of Resolution Number 2015-23 and Ordinance No. 2015-13:** A resolution and ordinance of the Flagstaff City Council adopting by reference minor amendments to the City Code.

RECOMMENDED ACTION:

At the Council Meeting of June 2, 2015

- 1) Read Resolution No. 2015-23 by title only
- 2) City Clerk reads Resolution No. 2015-23 by title only (if approved above)
- 3) Read Ordinance No. 2015-13 by title only for the first time
- 4) City Clerk reads Ordinance No. 2015-13 by title only for the first time (if approved above)

At the Council Meeting of June 16, 2015

- 5) Adopt Resolution No. 2015-23
- 6) Read Ordinance No. 2015-13 by title only for the final time
- 7) City Clerk reads Ordinance No. 2015-13 by title only for the final time (if approved above)
- 8) Adopt Ordinance No. 2015-13 on June 16, 2015.

- H. **Consideration and Adoption of Resolution No. 2015-24:** A resolution of the City Council of the City of Flagstaff, Arizona, repealing Resolution No. 2013-19, *Procurement Code Manual*, and adopting a new *Procurement Code Manual* to incorporate a new Article (Article 31) relating to procurement from Arizona certified nonprofit agencies that serve or employ individuals with disabilities. (***Amending Procurement Code Manual***)

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-24 by title only
- 2) City Clerk reads Resolution No. 2015-245 by title only (if approved above)
- 3) Adopt Resolution No. 2015-24

- I. ~~**Reconsideration of Resolution No. 2015-16:** Regarding a Veteran's Facility on McMillan Mesa~~ **MOVED TO ITEM15-B UNDER REGULAR AGENDA***

RECOMMENDED ACTION:

- 1) Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2015-16 would be required to be made (by a member voting with the majority).
- 2) Read Resolution No. 2015-16 by title only
- 3) City Clerk reads Resolution No. 2015-16 by title only (if approved above)
- 4) Adopt Resolution No. 2015-16

- J. **Consideration and Approval of Grant:** Arizona Department of Transportation Intergovernmental Agreement for light-emitting diode (LED) Street Lighting Procurement for Research. (***IGA with ADOT re LED lighting***)

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement (IGA/JPA 15-0005287-1) between the City of Flagstaff and the Arizona Department of Transportation (ADOT) for Surface Transportation Program (STP) funds in the amount of \$199,000.00, City matching funds in the amount of \$12,029.00 and City payment of ADOT Project Management & Design Review (PMDR) in the amount of \$10,000.00 for procurement of LED street lights associated with the Flagstaff Metropolitan Planning Organization's (FMPO) - Street Lighting for Enhancing Dark Skies (SLEDS) research project.

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3)

11. **ROLL CALL**

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

12. PUBLIC PARTICIPATION**13. CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA**

None

14. PUBLIC HEARING ITEMS

None

15. REGULAR AGENDA

- A. Consideration and Adoption of Resolution No. 2015-22:** A resolution of the City Council of the City of Flagstaff renaming the Flagstaff Recreation Center located at 2403 North Izabel Street to the "Hal Jensen Recreation Center" (***Renaming of Flagstaff Recreation Center***).

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-22 by title only
- 2) City Clerk reads Resolution No. 2015-22 by title only (if approved above)
- 3) Adopt Resolution No. 2015-22

- B. Reconsideration of Resolution No. 2015-16:** Regarding a Veteran's Facility on McMillan Mesa ***MOVED FROM ROUTINE AGENDA**

RECOMMENDED ACTION:

- 1) Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2015-16 would be required to be made (by a member voting with the majority).
- 2) Read Resolution No. 2015-16 by title only
- 3) City Clerk reads Resolution No. 2015-16 by title only (if approved above)
- 4) Adopt Resolution No. 2015-16

- C. Discussion and Possible Action:** Options related to joining the Flagstaff Living Wage Coalition's legal action challenging the constitutionality of ARS 23-204, which preempts local authority to regulate compensation and benefits contrary to voter adopted Proposition 202. **(PREVIOUSLY AGENDA ITEM 15-B)**

- D. Consideration and Adoption of Resolution No. 2015-19** A resolution of the Council of the City of Flagstaff, Arizona adopting the tentative estimates of the amounts required for the public expense for the City of Flagstaff for Fiscal Year 2015-2016; adopting a Tentative Budget; setting forth the receipts and expenditures; the amount proposed to be raised by direct property taxation; giving notice of the time for hearing taxpayers, for adopting of Budget and for fixing the tax levies (***Adopt Tentative Budget for City FY 15-16***) **PREVIOUSLY AGENDA ITEM 15-C**

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-19 by title only
- 2) City Clerk reads Resolution No. 2015-19 by title only (if approved above)
- 3) Adopt Resolution No. 2015-19

16. DISCUSSION ITEMS

None

17. POSSIBLE FUTURE AGENDA ITEMS

Verbal comments from the public on any item under this section must be given during Public Participation near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

- A. Possible Future Agenda Item:** Request by Mayor Nabours re Status on Efforts to Address Aggressive Solicitation

18. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS**19. ADJOURNMENT**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2015.

Elizabeth A. Burke, MMC, City Clerk

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 05/29/2015
Meeting Date: 06/02/2015



TITLE

Consideration and Approval of Minutes: City Council Special Meeting (Executive Session) of March 31, 2015; Regular Meeting of May 5, 2015; and Special Meeting (Executive Session) of May 26, 2015.

RECOMMENDED ACTION:

Amend/approve the minutes of the City Council Special Meeting (Executive Session) of March 31, 2015; Regular Meeting of May 5, 2015; and Special Meeting (Executive Session) of May 26, 2015.

EXECUTIVE SUMMARY:

Minutes of City Council meetings are a requirement of Arizona Revised Statutes and, additionally, provide a method of informing the public of discussions and actions being taken by the City Council.

INFORMATION:

COUNCIL GOAL

8. Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and development

Attachments: [03.31.2015.CCSMES.Minutes](#)
 [05.05.2015.CCRM.Minutes](#)
 [05.26.2015.CCSMES.Minutes](#)

MINUTES

1. Call to Order

Mayor Nabours called the Special Meeting (Executive Session) of March 31, 2015, to order at 4:00 p.m.

2. Roll Call

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

Others present: Interim City Manager Jeff Meilbeck; City Attorney Michelle D'Andrea; Deputy City Attorney Sterling Solomon; Risk Manager Dean Coughenour; Assistant City Attorney Kevin Fincel; and Deputy City Clerk Stacy Saltzburg.

3. Recess into Executive Session.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to recess into Executive Session.

Vote: 7 - 0 - Unanimously

The Flagstaff City Council recessed into Executive Session at 4:00 p.m.

4. Executive Session:

- A.** Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS 38-431.03(A)(3).
 - i.** Comprehensive litigation update and consultation.

5. Adjournment

The Flagstaff City Council reconvened into Regular Session at 5:24 p.m. at which time the Special Meeting (Executive Session) of March 31, 2015, adjourned.

Mayor

ATTEST:

City Clerk

4:00 P.M.

1. CALL TO ORDER

Mayor Nabours called the meeting of May 5, 2015, to order at 4:02 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means .

PRESENT

ABSENT

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON

COUNCILMEMBER PUTZOVA (excused)

Others present: Interim City Manager Jeff Meilbeck and Deputy City Attorney Sterling Solomon.

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

The audience and City Council recited the Pledge of Allegiance and Mayor Nabours read the City of Flagstaff's Mission Statement.

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

- A. Consideration and Approval of Minutes** : City Council Retreat of December 8-10, 2014; Mini Budget Advance of January 28, 2015; Budget Advance of February 11, 2015; Combined Special Meeting/Work Session of March 10, 2015; and the Regular Meeting of April 7, 2015.

Vice Mayor Barotz noted that she had spoken to the Clerk previously about the correction needed on page 7 of the March 10, 2015, minutes, wherein the vote should have been 5-2 with Mayor Nabours and Councilmember Overton casting the dissenting votes.

Moved by Councilmember Jeff Oravits, **seconded by** Councilmember Coral Evans to approve the minutes of the City Council Retreat of December 8-10, 2014; Mini Budget Advance of January 28, 2015; Budget Advance of February 11, 2015; Combined Special Meeting/Work Session of March 10, 2015 (as amended); and the Regular Meeting of April 7, 2015.

Vote: 7 - 0 - Unanimously

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

None

6. PROCLAMATIONS AND RECOGNITIONS

None

7. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

- A. Consideration of Appointments:** Open Space Commission.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to reappoint Richard Miller to the Open Space Commission as a Natural and Cultural Science representative with a term expiring April 2018.

Vote: 6 - 0 - Unanimously

Moved by Councilmember Karla Brewster, **seconded by** Mayor Jerry Nabours to appoint Kristina Wyse to the Open Space Commission as a Natural and Cultural Science representative with a term expiring April 2018.

Vote: 6 - 0 - Unanimously

8. LIQUOR LICENSE PUBLIC HEARINGS

- A. **Consideration and Action on Liquor License Application:** Tina Martinez, "Martanne's Breakfast Palace", 112 E. Route 66, Suite 101, Series 12 (restaurant), New License.

Mayor Nabours opened the Public Hearing. There being no public input, the Public Hearing was closed.

Moved by Councilmember Jeff Oravits, **seconded by** Councilmember Scott Overton to forward a recommendation for approval to the State for the liquor license [of Tina Martinez, "Martanne's Breakfast Palace", 112 E. Route 66, Suite 101, Series 12 (restaurant), New License].

Vote: 6 - 0 - Unanimously

9. CONSENT ITEMS

All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to approve the Consent Agenda Items 9-A and 9-B.

Vote: 6 - 0 - Unanimously

- A. **Consideration and Approval of Contract:** West St. and Arrowhead Ave. Improvements Phase III Project CMAR Construction Contract. ***(Approve contract with Hunter Contracting Company in the amount of \$1,704,962.95).***

- 1) Approve the Construction Manager at Risk (CMAR) construction contract with Hunter Contracting Company for a guaranteed maximum price of \$1,704,962.95 (including a 6.2% Owner's Contingency in the amount of \$105,949.00) with a 180 calendar day contract time; and
- 2) Authorize the City Manager to execute the necessary documents.

- B. **Consideration and Approval of Contract:** Hospital Rim and Switzer Mesa Flagstaff Urban Trail System (FUTS) Improvements ***(Approve contract with RTR Paving and Resurfacing, Inc. in the amount of \$297,434.00).***

- 1) Approve the construction contract with RTR Paving and Resurfacing, Inc. in the amount of \$297,434.00 (includes a \$30,500 contract allowance) and a contract time of 150 calendar days.
- 2) Approve Contract Change Authority to the City Manager in the amount of \$26,693.00 (10% of the contract amount, less allowance).
- 3) Authorize the City Manager to execute the necessary documents

10. ROUTINE ITEMS

- A. Consideration and Adoption of Resolution No. 2015-14:** A resolution approving the City of Flagstaff 2015/2016 Annual Action Plan and authorizing its submission to the U.S. Department of Housing and Urban Development (HUD).

Vice Mayor Barotz asked that the Council reconsider allocation of the excess \$12,000 be made to the County. She said that it was her understanding from previous comments made that the County had not completed Question 10 in the application, although the book in the Council's office showed that they had. Assistant Housing Director Sarah Darr replied that there was a 10-point question unanswered by the County, which is why they did not score as high as they could have, and the three others ranked above them were stronger applications.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Jeff Oravits to read Resolution No. 2015-14 by title only.

Vote: 6 - 0 - Unanimously

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL APPROVING THE CITY OF FLAGSTAFF 2015/2016 ANNUAL ACTION PLAN AND AUTHORIZING ITS SUBMISSION TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Moved by Vice Mayor Celia Barotz, **seconded by** Councilmember Coral Evans to amend the motion to direct the \$12,000 excess funds to the County's program.

Vote: 4 - 2

NAY: Mayor Jerry Nabours

Councilmember Jeff Oravits

Moved by Vice Mayor Celia Barotz, **seconded by** Councilmember Scott Overton to adopt Resolution No. 2015-14, as amended.

Vote: 6 - 0 - Unanimously

- B. Consideration and Adoption of Annexation Ordinance No. 2015-02:** An annexation ordinance extending and increasing the corporate limits of the City of Flagstaff by annexing land totaling approximately 135.91 acres located at 4100 & 4250 Kiltie Lane, establishing city zoning as RD (Research and Development) for 125.91 acres and HC (Highway Commercial) for 10 acres including right-of-way for Flagstaff Ranch Road and Kiltie Lane. **(Annexation of property for W.L. Gore located on Kiltie Lane)**

Moved by Councilmember Karla Brewster, **seconded by** Councilmember Jeff Oravits to read Ordinance No. 2015-02 by title for the final time.

Vote: 6 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARIZONA REVISED STATUTES, BY ANNEXING CERTAIN LAND TOTALING APPROXIMATELY 135.91 ACRES LOCATED AT 4100 & 4250 KILTIE LANE, WHICH LAND IS CONTIGUOUS TO THE EXISTING CORPORATE LIMITS OF THE CITY OF FLAGSTAFF, AND ESTABLISHING CITY ZONING FOR SAID

LAND AS RD (RESEARCH AND DEVELOPMENT) FOR 125.91 ACRES AND HC (HIGHWAY COMMERCIAL) FOR 10 ACRES INCLUDING RIGHT-OF-WAY FOR FLAGSTAFF RANCH ROAD AND KILTIE LANE

Moved by Councilmember Karla Brewster, **seconded by** Councilmember Jeff Oravits to adopt Ordinance No. 2015-02.

Vote: 6 - 0 - Unanimously

- C. Consideration and Adoption of Ordinance No. 2015-03:** An ordinance of the Flagstaff City Council amending the Flagstaff City Code to add freight and trucking facility as a permitted use in the Research and Development (RD) zone. Specifically, Title 10, Zoning Code, Division 10-40.30 (Non-Transect Zones), Section 10-40.30.050 (Industrial Uses) and related amendments to Division 10-80.20 (Definition of Specialized Terms, Phrases, and Building Functions), specifically Sections 10-80.20.060 (Definitions, "F.") and 10-80.20.200 (Definitions, "T."). ***(Adding Freight and Trucking Facility as permitted use in Research and Development zone)***

Moved by Councilmember Scott Overton, **seconded by** Councilmember Jeff Oravits to read Ordinance No. 2015-03 by title only for the final time.

Vote: 6 - 0 - Unanimously

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 10, ZONING CODE, DIVISION 10-40.30, NON-TRANSECT ZONES, SECTION 10-40.30.050, INDUSTRIAL ZONES, TABLE B. ALLOWED USES, AND DIVISION 10-80.20, DEFINITION OF SPECIALIZED TERMS, PHRASES, AND BUILDING FUNCTIONS, SECTIONS 10-80.20.060 DEFINITIONS, "F." AND 10-80.20.200 DEFINITIONS, "T.", PROVIDING FOR SEVERABILITY AND AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Jeff Oravits, **seconded by** Councilmember Karla Brewster to adopt Ordinance No. 2015-03.

Vote: 6 - 0 - Unanimously

- D. Consideration and Acceptance of Proposal and Contracts and Adoption of Resolution No. 2015-13:** Local Bank Deposit Program Services ***(Approve contracts with Alliance Bank and adopt Resolution authorizing agents for financial transactions)***

Revenue Director Andy Wagemaker said that based on questions raised at the last meeting the Legal Department had sent out further information on this item. He said that he did not have a formal presentation but Sherry Slayton with Alliance Bank was present and available to answer any questions.

Mayor Nabours asked Ms. Slayton to tell the public how they may help the citizens of Flagstaff if the City's money was deposited with Alliance Bank.

Ms. Slayton said that they get deposits to make loans; they have a lot of loan demands. She said that they have \$200,000 million in loans and \$200,000 million in deposits and have grown 25%, on average, over the past five years. She said that the way to keep growing is to gather more funds to continue such loans.

She said that they are an active member of Local First Arizona, where local communities help those businesses that are local. She said that there are several municipalities in Arizona, such as Gilbert, Chandler, Tucson, Phoenix, that have deposited monies to be used in this manner.

She said that as part of the RFP they were able to show the different loan types/amounts they have done in Flagstaff. She said that the money deposited with Alliance would be used for local business loans.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Scott Overton to accept the proposal and approve contracts with Alliance Bank of Arizona for Local Bank Deposit Program Services (CDARS Placement Agreement; CDARS Placement Agreement Supplement; Custodial Agreement; Custodial Agreement Amendment).

Vote: 6 - 0 - Unanimously

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to read Resolution No. 2015-13 by title only.

Vote: 6 - 0 - Unanimously

*A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA,
ADOPTING A "GOVERNMENT/MUNICIPAL/PUBLIC FUNDS BANKING RESOLUTION"*

Moved by Councilmember Scott Overton, **seconded by** Councilmember Jeff Oravits to adopt Resolution No. 2015-13.

Vote: 6 - 0 - Unanimously

- E. **Consideration of Intergovernmental Agreement:** (IGA)/Joint Project Agreement (JPA) 15-0005176-I between the City of Flagstaff (City) and the Arizona Department of Transportation (ADOT) for the FY 2016 Highway Safety Improvement Program (HSIP), Design and Installation of Signs. ***(Continue replacement of signs to increase safety under federal mandates).***

Councilmember Overton said that this was their second or third time through this process. He said that there is a lot of confusion in the public about why these signs were being replaced, when they appear to still be in good condition. He suggested that the City provide some public outreach to inform the reasoning for switching out the signs.

Moved by Councilmember Karla Brewster, **seconded by** Mayor Jerry Nabours to approve the Intergovernmental Agreement between the City of Flagstaff and Arizona Department of Transportation for grant funds in the amount of \$36,891.00 with no City match required.

Vote: 5 - 1

NAY: Councilmember Jeff Oravits

- F. **Consideration and Adoption of Ordinance No. 2015-06:** An ordinance of the City Council of the City of Flagstaff, amending the Flagstaff City Code, Title 3, Business Regulations, Chapter 3-10, User Fees, Section 3-10-001-0006, City Clerk, by increasing the Liquor License fee from \$560.00 to \$815.00; Providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing an effective date. ***(Increasing the Liquor License application fee.)***

Finance Director Rick Tadder explained that in the last study of 2009 they found that the full amount of this process was \$815. The current charge of \$560 was 70% of that cost and during the Council budget retreat this year staff was directed to bring this charge to 100% of cost recovery.

Moved by Councilmember Karla Brewster, **seconded by** Mayor Jerry Nabours to read Ordinance No. 2015-06 by title only for the final time.

Vote: 6 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, CHAPTER 3-10, USER FEES, SECTION 3-10-001-0006, CITY CLERK, BY INCREASING THE LIQUOR LICENSE FEE FROM \$560.00 TO \$815.00; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

Moved by Councilmember Karla Brewster, **seconded by** Mayor Jerry Nabours to adopt Ordinance No. 2015-06.

Vote: 6 - 0 - Unanimously

G. Consideration and Approval of Miscellaneous Account Receivable

Account Write-offs: Delinquent and uncollectable accounts for Fiscal Year 2015. *(2015 Miscellaneous Account Receivable Account Write-offs)*

Mr. Wagemaker said that based on questions at the last meeting, he included in the tables the average write-off amounts. He said that before they get to this point they have sent letters, made phone calls, visited businesses, etc. They do a variety of things before they get to this point. Depending on the account, they can lien the property and file against someone's credit with a debt offset so that if someone gets an IRS refund, the City can get it. He said that every year they will recover some of those funds based on those methods and means.

Mayor Nabours said that some of these are businesses that were incorporated or LLC's and the businesses have failed and/or closed. There is no personal liability against the owner. Mr. Wagemaker said that was correct. It depends on how the business was incorporated or structured their business.

Moved by Mayor Jerry Nabours, **seconded by** Vice Mayor Celia Barotz to include all three write-off items and approve the write-off of delinquent and uncollectable miscellaneous receivable accounts in the amount of \$31,095.45; transaction privilege (sales) tax accounts in the amount of \$94,271.80; and utility accounts in the amount of \$188,767.04.

Vote: 6 - 0 - Unanimously

H. Consideration and Approval of Transaction Privilege (Sales) Tax Write-offs:

Delinquent and uncollectable accounts for Fiscal Year 2015. *(2015 Transaction Privilege (Sales) Tax Account Write-offs)*

See 10-G above

I. Consideration and Approval of Utility Account Write-offs: Delinquent and uncollectable accounts for Fiscal Year 2015. *(2015 Utility Account Write-offs)*

See 10-G above

Moved by Vice Mayor Celia Barotz, **seconded by** Councilmember Coral Evans to reconsider the appointment made earlier in the meeting to the Open Space Commission as one of the two appointments was not eligible.

Vote: 3 - 3

AYE: Vice Mayor Celia Barotz

Councilmember Coral Evans

Councilmember Scott Overton

NAY: Mayor Jerry Nabours

Councilmember Karla Brewster

Councilmember Jeff Oravits

Since the motion failed, Vice Mayor Barotz requested a CCR from staff on the process that has been used in the past and this current process, and how they were able to appoint someone that was not eligible.

RECESS

The 4:00 p.m. portion of the May 5, 2015, Council meeting recessed at 4:41 p.m.

6:00 P.M. MEETING

RECONVENE

Mayor Nabours reconvened the meeting of May 5, 2015, at 6:01 p.m.

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

11. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

PRESENT

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA (telephonically)

ABSENT

NONE

Others present: Interim City Manager Jeff Meilbeck and Deputy City Attorney Sterling Solomon.

12. PUBLIC PARTICIPATION

The following individuals spoke in opposition to Agenda Item 17-A, possible future agenda item on joining the Living Wage Coalition's legal action.

- Robbie Primer
- Joy Staveley
- Ruben Abeyta
- Stuart McDaniel
- Karen MacKean
- Ash Patel
- Gaylord Staveley
- Gabor Kovaks
- Ashley Deering

The following comments were received:

- Leave it alone; hard to get staffing in our businesses unless we pay them well already
- Businesses are still trying to absorb Obamacare
- Not a good idea for government to get involved with setting wages
- A higher minimum wage could hurt those it is intended to help
- May create higher unemployment
- In San Francisco, many businesses have closed their doors; had to raise costs by 20%
- Will be difficult for tourism businesses to absorb such an increase
- Should not spend taxpayer money on a decision that should be made by the businesses
- Much of what the Chamber does is try and bring in economic development. Those businesses want to come in to a city with a stable economy
- The City has already made statewide news because of this and businesses are concerned about it
- Local business community is against this
- Does not support joining the lawsuit
- Creates an undue burden on small businesses
- Will not solve the wage issue
- Would mean another \$9600 per employee, per year for business owners
- Free market economy works

- Until the City brings in other high tech jobs, manufacturing, medical, etc. they will remain service-related
- There is no magic minimum wage. Wages in any city/town reflect the complex matrix of specific job opportunities. In Flagstaff they have a summer/winter seasonality and large student population
- An attempt to entice the City to join a private organization in a suit against the state is unethical on its face
- To have this encouraged by a person sitting on the Council is bordering on criminal

The following individuals spoke in favor of placing this item on a future agenda:

- Moran Henn
- Scott Geesley

Comments received included:

- Urges the Council to place this item on a future agenda to allow for the discussion
- It is not about minimum wage, but the overstepping of the State into local issues
- A discussion on minimum wage may be in the future, but this discussion is about the State overstepping

Dani Lawrence then addressed the Council regarding issues with Flagstaff Unified School District and the service of special needs kids in the community.

At this time, Mayor Nabours brought forward Item 17-A for discussion and direction.

13. CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA

None

14. PUBLIC HEARING ITEMS

- A. Public Hearing, Consideration / Adoption of Resolution No. 2015-15 and Ordinance No. 2015-05** : A resolution of the City Council of the City of Flagstaff, Arizona declaring that certain document known as the "2015 City Tax Code Amendments" as a Public Record, and providing for an effective date; and an ordinance of the City Council of the City of Flagstaff, Arizona, amending the Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes*, by adopting "2015 City Tax Code Amendments" as set forth in that public record on file with the City Clerk; providing for penalties, repeal of conflicting ordinances, severability, authority for clerical corrections, and establishing effective dates. **(2015 City Tax Code Amendments)**

Revenue Director Andy Wagemaker reviewed the following slides, which represented the majority of changes being proposed with regard to business licenses:

ANNUAL RENEWAL

Required

Flagstaff will have \$0 renewal fee

Not able to change in the future

LICENSE FEE

\$50 limit (currently it is \$46)

REMOVES PAYMENT IN LIEU OF TAXES

Affects Peddler, Fair Vendor and Solicitors

Requires permanent sales tax license

Requires remittance of sales taxes

LICENSE REQUIREMENTS

Removes compliance with other City Code requirements

Mr. Wagemaker said that they have lost tying any of the compliance with the sales tax license, but there are still other codes that will allow them to talk with the businesses re issues.

Mayor Nabours opened the Public Hearing. There being no public input, the Public Hearing was closed.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to read Resolution No. 2015-15 by title only.

Vote: 6 - 0 - Unanimously

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE 2015 CITY TAX CODE AMENDS" AS A PUBLIC RECORD, AND PROVIDING FOR AN EFFECTIVE DATE

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Karla Brewster to read Ordinance No. 2015-05 by title only for the first time.

Vote: 6 - 0 - Unanimously

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, BY ADOPTING "THE 2015 CITY TAX CODE AMENDMENTS" AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK RELATING TO TRANSFER OF LOCAL TRANSACTION PRIVILEGE AND USE TAX ADMINISTRATION AND COLLECTION TO THE ARIZONA DEPARTMENT OF REVENUE; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

15. REGULAR AGENDA

- A. Consideration and Adoption of Ordinance No. 2015-08:** An ordinance of the Flagstaff City Council amending Title VI, *Police Regulations*, of the Flagstaff City Code by amending Section 6-08-001-0005, *Large Parties, Gatherings or Events*, thereof; providing for severability and authority for clerical corrections, and establishing an effective date. ***(Amending, revising and supplementing Section 6-08-001-0005, Large Nuisance Parties, Gatherings or Events, of the Flagstaff City Code)***

Assistant City Attorney Marianne Sullivan reviewed a PowerPoint presentation, which she said was based on suggestions developed based on previous discussions.

DEFINITIONS**RESPONSIBLE PERSON**

This is not a criminal violation; it is civil.

Mayor Nabours asked Ms. Sullivan, based on her experience, how that would play out with the officers and if it was a judgment call. Ms. Sullivan said that was occurring now. They make an assessment currently. She said that in the training of this, the focus is to deter the type of behavior that is causing the nuisance.

VIOLATIONS

OPTIONS FOR 2ND AND 3RD OFFENSE

NOTIFICATION

CIVIL PENALTIES

If the Owner is at the party

If the Owner is not at the party

NOTIFICATION OPTIONS

Brief discussion was held on the waiver. Chief Treadway said that they are looking for a partnership. The landlord that is willing to let them police his property and has demonstrated they are actively trying to improve will be eligible for a waiver. Ms. Sullivan said that the goal, too, is to get a partnership and not penalize those that are trying to solve the problem.

Ms. Sullivan added that there was nothing in the ordinance that would prevent an officer from citing criminal actions. The purpose of this is to take it out the criminal field and move it more into civil.

SPECIAL PROVISIONS

Deputy Police Chief Walt Miller then continued the presentation.

IMPLEMENTATION

COMMUNITY OUTREACH

INFORMATION SHEETS FOR MEMBERS OF PUBLIC

MET WITH COURT ADMINISTRATION

DEPARTMENT IN-SERVICE TRAINING ON NEW ORDINANCE

ASSIGNED TO SPECIAL ENFORCEMENT

DEPARTMENT POLICY

Brian Lee Wilson, Flagstaff, said that he supports the Council's efforts to enforce this and while he provides HOA management services, his comments were his own opinion. He then offered some comments regarding the need to receive police reports free of charge, have the Police Department survey the property when a property owner requests a waiver; electronic notification of violations, etc.

Most of the Council agreed they would like to move forward with the ordinance. They then discussed the options regarding the number of days for subsequent offenses, and agreed on 120 days. Additionally, they agreed on 30 days for the property owner to work on a problem.

Chief Treadway noted that the placard option was not in the ordinance at this time. Mayor Nabours said that he was willing to let that ride for now and see how this works.

Brief discussion was held on the benefit of also providing electronic notification to the owners.

Mayor Nabours voiced concern with the idea presented on having the Police Department survey the property. Chief Treadway said that all of that is done in the Crime Free Multihousing Program, which starts with education and review of the property. It is an

international program that is proven, and it has been shown that with those facilities that have come on board there have been significant reductions in violations.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Scott Overton to read Ordinance No. 2015-08 by title only for the first time, with the options of 120 days and 30 days, and the inclusion of INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS, OR SURCHARGES, in the appropriate sections.

Vote: 5 - 1

NAY: Councilmember Jeff Oravits

Councilmember Oravits said that he was voting no for now as he still had some concerns.

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING TITLE VI, POLICE REGULATIONS, OF THE FLAGSTAFF CITY CODE BY AMENDING SECTION 6-08-001-0005, LARGE PARTIES, GATHERINGS OR EVENTS, THEREOF; PROVIDING FOR SEVERABILITY AND AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE AS AMENDED

- B. Discussion and Possible Action** : Proposed 2016 State Legislative Resolutions to be submitted to the League of Arizona Cities and Towns.

Deputy City Manager Jerene Watson said that they were bringing back the work done last week. Council directed staff to move forward with the five resolutions proposed.

16. DISCUSSION ITEMS

None

17. POSSIBLE FUTURE AGENDA ITEMS

Verbal comments from the public on any item under this section must be given during Public Participation near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

- A. Possible Future Agenda Item Request** : Options related to joining the Flagstaff Living Wage Coalition's legal action challenging the constitutionality of ARS 23-204 regarding local authority to regulate local compensation and benefits

This item was discussed after Item 12 (Public Participation) above.

Councilmember Putzova said that she had requested this item be placed on a future agenda because it is one of the City's guiding principles -- local control. In 2006, the Legislature said that compensation and benefits were a local issue.

Councilmember Evans said that there is a lot of misunderstanding. For her, the issue has to do with the Arizona State Constitution and whether they feel it is a suggestion or if it is a mandate that applies to everyone all the time. She said that she has talked with a lot of business owners regarding minimum wage and that is a conversation they have not had as a Council. What they were talking about tonight was whether the State can override the

voters' direction. The State has done this before and continues to do it.

Councilmember Overton and Mayor Nabours said that they had no interest in discussing this further.

Vice Mayor Barotz said that the lawsuit is about two laws. The first gives local authority on wages and benefits. The second attempts to take it away. There is a direct conflict and she believes the issue should be resolved. She supports a conversation to explore this more in the future.

Councilmember Oravits said that he was not in favor of moving this forward. While he heard the concerns, the reality is that it is already being brought forward by a private group and he saw no reason for the City to become involved in it. He said that it did appear that there were three interested in moving the issue forward, and because of that he would request that it be brought forward quickly so it can be discussed and settled as it can be unsettling for the business community and those interested in investing in the community.

Mayor Nabours said that there were three interested, and staff was directed to get it on a future agenda.

18. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS

Councilmember Evans said that she would like to have a conversation on when people are allowed to speak on Section 17 items. After brief discussion Mr. Meilbeck suggested that they take this back to staff and see if they could put something together to be considered in the future.

Councilmember Brewster noted that NAU graduation was this coming weekend.

Mayor Nabours requested that he receive a CCR on the current requirements for commissions as to how many have to be from a certain line of work, and then maybe a future agenda item.

Mr. Meilbeck reported that the City has been in a national search for an Economic Vitality Director, and today the position was offered to and accepted by Heidi Hansen.

19. ADJOURNMENT

The Regular Meeting of the Flagstaff City Council held May 5, 2015, adjourned at 8:04 p.m.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATION

STATE OF ARIZONA)
) ss.
Coconino County)

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on May 5, 2015. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 2nd day of June, 2015.

CITY CLERK

MINUTES

1. Call to Order

Mayor Nabours called the Special Meeting (Executive Session) of May 26, 2015, to order at 4:00 p.m.

2. Roll Call

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

PRESENT:

ABSENT:

MAYOR NABOURS
VICE MAYOR BAROTZ
COUNCILMEMBER BREWSTER
COUNCILMEMBER EVANS
COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER PUTZOVA

NONE

Others present: City Attorney Michelle D'Andrea (partial) and Human Resources Director Shannon Anderson.

3. Recess into Executive Session.

Moved by Mayor Jerry Nabours, **seconded by** Councilmember Jeff Oravits to recess into Executive Session.

Vote: 7 - 0 - Unanimously

4. Executive Session:

The Flagstaff City Council recessed into Executive Session at 4:00 p.m.

- A.** Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting, pursuant to ARS 38-431.03(A)(1).

- i. City Attorney Contract

5. Adjournment

The Flagstaff City Council reconvened into Open Session at 4:38 p.m. at which time the Special Meeting of May 26, 2015, adjourned.

MAYOR

ATTEST:

CITY CLERK

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Action on Liquor License Application: Andrea Lewkowitz, "Drury Inn & Suites - Flagstaff", 300 S. Milton, Series 11 (Hotel/Motel), New License.

RECOMMENDED ACTION:

Hold the Public Hearing; absent any valid concerns received from the public hearing, staff recommends the Council forward a recommendation for approval to the State.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 11 license allows the sale and service of spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

The Drury Inn & Suites - Flagstaff is currently operating with a Series 6 liquor license (all spirituous liquor); the Series 6 license will become inactive if and when the Series 11 license is approved. The property has been posted as required, and the Police, Community Development, and Sales Tax divisions have reviewed the application with no concerns noted

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Connection to Council Goal and/or Regional Plan:

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Options and Alternatives:

- 1) Table the item if additional information or time is needed.
- 2) Make no recommendation.
- 3) Forward the application to the State with a recommendation for approval.
- 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

An application for a new Series 11 liquor license was received from Andrea Lewkowitz for Drury Inn & Suites - Flagstaff, 300 S. Milton.

A background investigation performed by Tom Boughner, Code Compliance Manager, resulted in no active code violations being reported.

Key Considerations:

The deadline for issuing a recommendation on this application is June 16, 2015.

This business will contribute to the tax base of the community. We are not aware of any other relevant considerations.

The application was properly posted on May 8, 2015. No written protests have been received to date.

Attachments: Drury - Letter to Applicant
Hearing Procedures
Series 11 Description
Drury - PD Memo
Drury - Code Memo
Drury - Tax Memo

OFFICE OF THE CITY CLERK

May 21, 2015

Drury Inn & Suites - Flagstaff
Attn: Andrea Lewkowitz
2600 N. Central Ave., Suite 1775
Phoenix, AZ 85004

Dear Ms. Lewkowitz:

Your application for a new Series 11 liquor license for Drury Inn & Suites – Flagstaff at 300 S. Milton Rd., was posted on May 8, 2015. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, June 2, 2015 which begins at 4:00 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on May 28, 2015 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
 2. Number and types of licenses within one mile of the proposed premises;
 3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
 5. Residential and commercial population density within one mile of the proposed premises;
 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
 9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 11 Hotel/Motel License (with Restaurant)

Non-transferable

On-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

An applicant for a hotel/motel license must file a copy of its restaurant menu with the application.

A hotel/motel licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

The restaurant on the licensed premises must derive at least forty percent (40%) of its gross revenue from the sale of food.

A hotel or motel with a Series 11 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and **not** furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept delivery of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women must be posted in each room on the inside of the door **or** on a menu (or similar item).

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

MEMORANDUM

Memo # 15-045-01

TO Chief Treadway
FROM Sgt. Matt Wright
DATE May 18, 2015
REF Liquor License Application for a series 11 Hotel/Motel license for Drury Inn & Suites.

On May 18, 2015, I initiated an investigation into an application for a series 11 (hotel/motel license) liquor license filed by Andrea Lewkowitz (Agent), Dennis Vollink, Carolyn Bohnert and Herbert Weidemeier (Controlling Persons) for The Drury Inn & Suites in Flagstaff. The Drury Inn & Suites is located at 300 S. Milton Road in Flagstaff. Andrea Lewkowitz is the listed Agent for administrative purposes only and will not be responsible for the day to day operations of the hotel. The liquor license application number is 11033052.

I conducted a local records check and a check on public access on Andrea Lewkowitz (Agent) and Dennis Vollink, Carolyn Bohnert and Herbert Weidemeier. No derogatory records were found. No liquor violations were located at this location as they currently operate with a full bar license series 6 (06034000).

I spoke with Andrea who stated their current manager, Jeff Thiess, has been handling the day to day operations of the Drury Inn since 2008. Andrea confirmed Jeff has completed the mandatory liquor law training course. Andrea also stated current series 6 full bar license would become “inactive” when this series 11 license is approved. Andrea said they had plans to sell the series 6 license at that time.

As a result of this investigation, I can find no reason to oppose this application. Recommendation to Council is for approval.




Planning and Development Services Memorandum

May 17, 2015

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Roger E. Eastman, AICP, Comprehensive Planning and Code Administrator

FROM: Tom Boughner, Code Compliance Mgr. 

RE: Application for a new, series #11 Liquor License.
Andrea Lewkowicz, on behalf of the Drury Inn, 300 South
Milton Road, Flagstaff, AZ. 86001.
Assessor's Parcel Number 103-06-014

This application is a request for a new, Series 11 (Hotel with Restaurant) liquor license, by Andrea Dahlman Lewkowicz on behalf of Drury Southwest Flagstaff, LLC. This hotel is located at 300 South Milton Road, Flagstaff, Arizona, on the Northern Arizona University campus. It is located within the Public Facility zoning district.

There are no active Zoning Code violations associated with the applicant or the property at this time.

This license application is recommended for approval.



Memo

To: Stacy Saltzberg, Deputy City Clerk

From: Ranbir Cheema - Tax, Licensing & Revenue Manager

Date: May 20, 2015

Re: Series 11 Liquor License – Drury Inn & Suites

I have reviewed our records for Drury Southwest Flagstaff LLC and have no objection to approval of this liquor license.

/liquor licenses/Drury.doc

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Ryan Roberts, Utilities Engineering Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of (Confirming) Payment: Reimbursement payment to W.L. Gore and Associates for oversizing of new public waterline. *(Waterline reimbursement as agreed in pre-annexation agreement with W.L. Gore and Associates).*

RECOMMENDED ACTION:

Approve reimbursement payment to WL Gore and Associates in the amount of \$356,440.53.

Executive Summary:

In accordance with pre-annexation agreement with W.L. Gore and Associates the City agreed to reimburse W.L. Gore for the oversizing of a new regional waterline extending west along Route 66 and south on Flagstaff Ranch Road. The installation of this water main will allow the City to provide adequate fire flow service to the W.L. Gore manufacturing facilities located at 2400 Kiltie Lane. The new waterline was designed and installed by W.L. Gore to City specifications in fiscal year 2014 and was accepted into the City of Flagstaff municipal water system on December 16, 2014. Connection to City utilities for the Woody Mountain Campus benefits both Gore and the City because it allows the completion of a regional system loop, provide improved water quality to the area residents, and provides improved water pressures and flows in the event of a fire. The total reimbursement cost for oversizing the new water main amounted to \$356,440.53. The reimbursement for this project was budgeted in the Utilities Enterprise Fund in FY14 in the amount of \$450,000.00.

Financial Impact:

The Utilities Division has \$450,000 budgeted in the Utilities Enterprise Fund in account # 202-08-370-3164-0-4463 for reimbursing W.L. Gore for oversizing of this regional waterline. The remaining unused funding will be returned to the Utilities fund balance.

Connection to Council Goal and/or Regional Plan:

City's participation in the upsizing of this waterline supports the Council Goals in the following areas;

COUNCIL GOALS:

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

REGIONAL PLAN:

This project supports the policies and goals of the Regional Plan as outlined below;

Policy LU.7. Required Incorporated properties to be annexed prior to the provision of City services, or that a pre-annexation agreement is executed when deem appropriate. A pre-annexation agreement for

these properties was approved by the City Council in January 2014. In order to complete the final components of the new water system infrastructure, the City has requested that W.L.Gore complete the annexation process.

Goal LU.8 Balance future growth with available water resources.

Water resources were evaluated for this annexation as part of the water system improvements constructed by W.L. Gore.

Goal ED.3. Regional economic development partners support the start-up, retention, and expansion of existing business enterprises.

This annexation allows for the expansion of Flagstaff's largest commercial employer.

Has There Been Previous Council Decision on This:

A pre-annexation agreement with W.L. Gore for properties located at their Woody Mountain campus facility was approved by Council in January 2014 . This pre-annexation agreement included approval for the upgrade and construction of a new regional waterline along Route 66 and Flagstaff Ranch road to improve fire flows and provide for future growth in this area.

The Public Hearing and first reading of the annexation ordinance occurred at the April 7, 2015, Council meeting. The Final reading of the annexation ordinance was approved by Council on the May 5, 2015 meeting.

Options and Alternatives:

Approve (confirm) payment.

Not approve (deny) payment.

Background/History:

W.L. Gore and Associates requested out-of city water and sewer service for the Woody Mountain Campus located at 4100 W.Kiltie Lane (APN's 116-04-003Y, 116-04-007F). The properties are located outside the City's service area boundary in Coconino County and do not pay City property taxes. In 2014, the Water Commission and City Council approved W.L. Gore's request for out of City water and sewer service contingent upon the owner executing an annexation agreement with the City of Flagstaff. The annexation agreement was adopted by City Council on May 5, 2015.

W.L Gore and Associates currently receives City water and sewer service to its manufacturing facility located on Kiltie Lane. The existing Woody Mountain campus, with buildings and parcels inside and outside the City's service area boundary, is located at the end of a municipal water line, does not have adequate fire flows and sewer capacity is limited. W.L. Gore requested a second looped connection in order to provide adequate onsite fire protection and allow for future expansion of the Woody Mountain campus. Connection to city utilities for the Woody Mountain Campus benefits both Gore and the City because it allows the City to complete regional system loops, provide improved water quality to the area residents, and provides improved water pressures and flows which is useful in the event of a fire.

W.L. Gore and Associates handled all design, procurement project management and construction of this new water line. Minimum sizing of both water and sewer lines are 8 inches in diameter. The City requested that the line be over-sized to 18 inches in diameter in order to address future regional needs and improve fire flows in this area of the municipal system. While W.L. Gore handled the procurement process, the City provided oversight to ensure that the bid and award of the project complied with City and State rules and regulations for public bidding.

Key Considerations:

The total reimbursement cost for oversizing the new water main amounted to \$356,440.53. A copy of the reimbursement cost allocation prepared by Turner Engineering was reviewed and approved by Utilities staff and is attached.

Funding for reimbursing W.L. Gore for oversizing of this water line is available in Account # 202-08-370-3164-0-4463. Project funding is budgeted in FY15.

City procurement staff oversaw and ensured that the bid and award of the construction project complied with City of Flagstaff and State of Arizona rules and regulations for public bid.

Community Benefits and Considerations:

A pre-annexation agreement approved in January 2014 allowed W.L. Gore to move forward with extending a public water main along Route 66 from Woody Mountain Road , along Flagstaff Ranch Road to Kiltie Lane. The completion of this waterline created a looped water system infrastructure necessary to provide adequate fire flows at the existing W.L. Gore facilities as well as for future development of their properties included in this annexation.

Annexing of W.L Gore properties and extension of the public water system also provides for extended development opportunities to the largest private employer in the City of Flagstaff. The growth of their manufacturing campus will allow for the expansion and retention of a significant employee base.

Community Involvement:

Inform/Consult

The Water Commission conducted a public hearing on January 17, 2013 at 4 p.m. The extension and oversize reimbursement of this waterline was discussed at this meeting. In addition the reimbursement to W.L. Gore and Associates for oversizing of this water line was discussed during FY14 proposed budget and Capital Improvement program meetings with City Council members.

Public hearings before Water Commission, Planning and Zoning and City Council are conducted in conjunction with any annexation request. The extension of this water line and City reimbursement was discussed at each meeting. In accordance with Arizona Revised Statutes, notice of the public hearing was provided by placing an ad in the Arizona Daily Sun, posting a notice on the public hearing on the public hearings on the City Website, and posting a public meeting notice in City Hall.

Attachments: WL Gore Reimbursement Cost Allocation
Preannexation Agreement

TURNER ENGINEERING INC.
CONSULTING CIVIL ENGINEERING

April 10, 2015

Paul W. Turner, P.E. CFM
Michael D. Kearly, P.E. CFM

City of Flagstaff
Utilities Department
Mr. Ryan Roberts, P.E. CEM, Utilities Engineer
211 West Aspen Avenue
Flagstaff, Arizona 86001

RE: West Route 66 Water Transmission Main

Dear Mr. Roberts,

Pursuant to your request we have compiled the construction costs and fees associated with the completed improvement of the Transmission Main. The following is a summary of those costs and the allocation of costs pursuant to the agreement Dated March 14, 2014 between the City and W.L. Gore & Associates, Inc. and is attached for reference.

Final Construction Cost from T & T Construction was \$1,184,075.40 for the entire project. Per the agreement, the total construction cost for the upsized pipes (12" & 18") as constructed project shall be compared to the bid cost for an 8" main needed by Gore. The agreement states in Item 6d. "The cost for the 8" Water Main, otherwise required by W.L. Gore, will be the lowest bid from among the three lowest qualified bidders for the 12" & 18" Water Main as determined above in 6b. For completeness 6b. States, "The City and W.L. Gore will review the bids submitted to determine the three low qualified bidders for the 12" & 18" Water Main.

Qualified Bidders	Original Bid Amount	
	12" & 18"	8"
T&T Construction, Inc.	\$1,114,044.60	\$901,586.60
Eagle Mountain Construction	\$1,147,829.30	\$874,930.45
Hunter Constructing Co.	\$1,212,341.00	\$996,350.00

Low Bid	\$1,114,044.60	\$874,930.45
Net Difference per Original Bid		\$239,114.15

The actual final construction cost was \$1,184,075.40. This will be reduced by the lowest of the three qualified bidders in the amount of \$874,930.45. For a net difference of \$309,144.95. This is the amount to be reimbursed to W.L. Gore for the Construction Contract with T & T Construction.

Furthermore, other costs associated with the Project are Engineering, Inspection, Testing, ADEQ fee, and Coconino permit fee. It is understood those costs will allocated by dividing them in half.

Engineering & CM Fees	\$ 61,637.01
COF Inspection Fee	\$ 18,760.00
COF Testing Fee	\$ 15,694.16
Coconino Co. Permit Fee	<u>\$ 300.00</u>
Total Fees Paid by W.L. Gore	\$ 96,391.17

Reimbursement by City (1/2) \$ 48,195.58

ADEQ fee \$1,800.00 This was paid in total by COF
Deduct ½ of ADEQ fee \$(900.00)

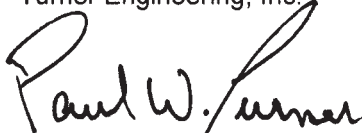
Total Reimbursement of Fees \$ 47,295.58

The total reimbursement contains the construction allocation above and one half of the fees paid:

Construction Reimbursement	\$309,144.95
Summary of ½ fees Reimbursement	<u>\$ 47,295.58</u>

Total Reimbursement to W.L. Gore \$356,440.53

Sincerely,
Turner Engineering, Inc.



Paul W. Turner, P.E., CFM
President

Attachments:
March 14, 2014 Agreement for Reimbursement
Final Pay Request from T & T



City Clerk
City of Flagstaff
211 W. Aspen Avenue
Flagstaff, Arizona 86001

**PREANNEXATION, DEVELOPMENT AND OVERSIZING AGREEMENT BETWEEN
W. L. GORE & ASSOCIATES, INC. AND CITY OF FLAGSTAFF**

THIS AGREEMENT is entered into this 11th day of February, 201⁴, by and between W. L. GORE & ASSOCIATES, INC., a Delaware Corporation (hereinafter "Owner"), and the CITY OF FLAGSTAFF, an Arizona Municipal Corporation, (hereinafter "City").

RECITALS

- A. The Owner is the owner of certain parcels of real property situated within Coconino County, Arizona, currently located inside and outside the incorporated boundaries of the City. The property, generally known as the "Woody Mountain Campus," is shown on the attached Exhibits A, B, and B-1 (collectively the "Property"). That portion of the Property located outside the City Limits is depicted and legally described in Exhibits B and B-1 (collectively the "County Property.") The Owner hereby represents and warrants to the City that it is the sole fee-title owner of the Property and that to the best of its actual knowledge no other person or entity has any legal or equitable ownership interest in the property except: easements and conditions of record.
- B. The City and the Owner are entering into this Agreement pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") § 9-471 (pertaining to annexation) and A.R.S. § 9-500.05 (pertaining to development agreements) in order to facilitate the annexation, municipal zoning designation, design and construction of off-site water and sewer facilities, and development of the Property providing for among other things: (1) conditions, terms, restrictions and requirements for annexation of the County Property to the City; (2) the permitted uses for the Property; and (3) other matters related to development of the property.
- C. The Owner desires and intends to develop the Property for research and development (the "Project") pursuant to the terms and conditions of this Agreement and the Preliminary Site Plan for W.L. Gore & Assoc. (concept plan) prepared by Kenneth A. Krenke, dated April 15, 1997, that is attached as Exhibit C (the "Concept Plan"). The City agrees that the Owner may develop the Property and pull building permits for the County Property in the event that annexation is delayed, pursuant to Coconino County's approval process.
- D. The City and Owner acknowledge that the annexation and ultimate development of the Property within and as an integral part of the City would be a project of significance, and the Owner desires assurances from the City of the City's willingness to proceed with the

required procedures so that the Property will be consistent with the Flagstaff Area Regional Land Use and Transportation Plan ("Land Use Plan"). This Agreement is consistent with the City Land Use Plan applicable to the Property on the date this Agreement is executed.

- E. The Owner acknowledges that annexation of the County Property pursuant to this Agreement will be beneficial and advantageous to the Owner by providing assurances to the Owner that it will have the ability to develop the County Property pursuant to this Agreement in a manner consistent with Owner's abutting property within the City, currently zoned R&D-E (Research and Development Industrial District Established) with a Business Park (BP) designation and/or current zoning for the County Property .
- F. Pursuant to the City's current out-of-City water and sewer service extension policy, as set forth in Resolution No. 1521, adopted December 15, 1997 (the "Resolution") and current Section 2-04-001-0008 and -0009 of the Flagstaff City Code, owner has applied for out-of-City water and sewer service for parcels 116-04-008E and 116-04-003Y. Under this policy, the City may consider out-of-City water and sewer service extension requests on a case-by-case basis, and to grant such requests subject to special conditions. The City's Water Commission had recommended that the City grant such service extension subject to the express special condition that Owner agrees to execute a Preannexation Agreement for the above-mentioned parcels with the City of Flagstaff.
- G. The City shall provide new and additional water service to parcels 116-04-008E and 116-04-003Y pursuant to the terms of this Agreement and applicable City ordinances. The off-site water facilities required to provide the new and additional services will be designed and constructed by the Owner. The City will pay for oversizing of the off-site facilities to provide a regional benefit to the area. Upon completion of the construction and acceptance of the work by the City, the City will acquire ownership of the off-site water facilities.
- H. The Property currently has an on-site water and fire hydrant system that the Owner wishes to dedicate to the City, along with easements for those facilities. The Owner and the City desires and intends to negotiate an agreement regarding those on-site facilities separate from this Agreement. The City desires and intends to accept those water improvements into the City system that provide water and fire protection to existing buildings of Owner after Owner brings the system up to then current City Code requirements as determined by independent consultant, WLB Group, attached as Exhibit E hereto and incorporated herein by reference. The City Utility Director has authority to negotiate and execute the above mentioned agreement discussed in this Section H.
- I. City and Owner acknowledge and agree that the development and construction of a regional water loop for the City of Flagstaff will result in economic benefit to the City and its residents by improving water quality and dependability.
- J. The City shall provide water and sewer service to the Property pursuant to the terms of this Agreement.

- K. The City confirms that prior to the execution of this Agreement, the City has met all legal requirements for its approval under state and local law.
- L. This Agreement is not intended to in any way limit City's remaining obligations to provide water, sewer, fire and emergency services under the terms of the Preannexation and Development Agreement between Owner and City dated June, 2005, as it relates to parcel 116-04-007F.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, City and Owner state, confirm and agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing recitals and all exhibits are incorporated into this Agreement by this reference.
2. Agreement to Annex. Following the execution of this Agreement and upon Ninety (90) days written notice from the City Manager, Owner shall submit an application for annexation of the County Property to the City. By executing this Agreement, the Owner is agreeing to the annexation of the County Property at a future date subject to the requirements of A.R.S. §§ 9-471 through 9-472 relating to annexation of the County Property and conditioned only upon those provisions and conditions contained in this Agreement, the requirements of the laws of the State of Arizona and the currently existing ordinances of the City. Owner further agrees to timely sign the petition required by law for annexation.
3. Duration of this Agreement. If not sooner terminated in accordance with the provisions hereof, this Agreement, including the right of the City to annex the County Property into the City and the Owner's agreement to annex the County Property, shall continue in full force and effect from the recording date of this Agreement for a period of ten(10) years, except that if a signed annexation petition has been filed with the Coconino County Recorder and the annexation process is pending adoption of an ordinance annexing the County Property or other Flagstaff City Council action, this Agreement shall stay in effect for any additional time necessary to complete the annexation. The failure to complete annexation prior to expiration of this Agreement shall not affect the extension of the water and sewer lines to the Property or the Owner's right to use City water and sewer services pursuant to the terms currently established by the City Water Commission and all applicable City ordinances as though the County Property had been annexed to the City.
4. Zoning.
 - 4.1. Zoning and Land Use Plan Designation Upon Annexation. The City and the Owner acknowledge that A.R.S. § 9-471(L) requires the City to initially zone annexed property for densities and land uses no greater than the previously

existing county zoning for such lands. The City determined that the zoning designations under the Flagstaff Zoning Code most comparable to the Coconino County ("County") zoned MP-20,000 (Industrial Park Zone) designation is RD, Research and Development Zone. The most comparable City zone for the land in the County zoned CH-10,000 (Commercial General) is CC, Community Commercial Zone. If the County Property is annexed under this Agreement, the City agrees to adopt the RD, Research and Development, zoning classification for the County Property currently in the MP-20,000 to be effective after the annexation has become final. As to all County Property within the CH-10,000 Zone, the City agrees to adopt the CC, Community Commercial, zoning classification for the County Property to be effective after the annexation has become final.

- 4.2. Vested Zoning and Protected Development Rights. As to the Property, the City's RD zoning district currently allows development on the Property that is compatible and consistent with the established research and development use on the Owner's abutting development per the Concept Plan, set forth in the Preliminary Site Plan for W.L. Gore & Assoc. (concept plan) prepared by Kenneth A. Krenke, dated April 15, 1997, that is attached as Exhibit C (the "Concept Plan"). The City agrees that for construction occurring on properly zoned property in the City, upon the Owner's commencement of grading pursuant to a validly issued permit, the Owner's right to complete the construction as shown on the Concept Plan vests, and the Owner has a protected development right to complete the Project pursuant to the Concept Plan and the existing zoning. Any revocation of the Owner's development rights after annexation shall be pursuant to A.R.S. § 9-1204.
- 4.3. Further Zoning Changes. Upon annexation, the portion of the County Property that will be zoned CC, Community Commercial, will not be compatible and consistent with research and development uses as proposed on the Concept Plan. The Owner may apply for zoning map amendment from CC to the RD, Research and Development Zone. This zoning classification is consistent with the current Office/Business Park Designation of the Regional Land Use and Transportation Plan and thus no amendment to the plan will be required. The Owner can apply for the zoning map amendment concurrently with the annexation application. If this zoning is approved by the Council, the zoning of the entire Property will be compatible and consistent with the current research and development uses as anticipated on the Concept Plan and only site-plan approval will be required for the individual development(s) within the Property to assure that the individual proposed development(s) will be in complete compliance with the City of Flagstaff development requirements, so long as the current zoning code remains in effect, and is not changed by Owner's request.
- 4.4. Growth Boundary. The City hereby acknowledges that the Property is within the current Urban Growth Boundary (UGB) Stage 1 established by the Land Use Plan.

5. Regulation of Development; Fees.

- 5.1. Jurisdiction. Except as otherwise specified in this Agreement, until such time as the County Property is annexed into the City, the Property shall be governed by the ordinances, rules, regulations, permit requirements, building codes, and other requirements of Coconino County, Arizona, including fee provisions. After the annexation is complete, and subject to the requirements of Sections 5 and 6 of this Agreement, the development of the Property shall be governed by the ordinances, rules, regulations, permit requirements, and other requirements of the City, including fee provisions.
- 5.2. Off-Site Water Facility Review Fees. Owner shall pay to the City all plan review, permitting and inspection fees associated with construction of off-site water facilities and any other City infrastructure improvements for which the initial review will be conducted by the City. The Owner will pay for the City's cost for inspecting the installation work through the fee for issuance of the City's permit.
- 5.3. Mutual Review. On-site grading, drainage plans, site plans, and building elevation plans shall be reviewed and approved by Coconino County with City comments provided through a mutual review process. Drainage structures within the current City limits shall meet City design criteria. The design engineer shall provide Rough and Final Grading Certification that certifies the grading was performed according to the approved drainage plans to the City if in the City, and to the County if in the County.

6. Water Infrastructure.

- 6.1. Water Facilities. The Owner retained Turner Engineering, Inc. to provide design services for the off-site water facilities. Specifically, the scope and nature of the off-site water facilities to be constructed are as described in Exhibit D and more particularly described in the plans prepared by Turner Engineering, Inc. (the "Water Facilities"). The proposed extension of the Water Facilities has been designed and will be constructed by Owner at Owner's cost. The Owner will follow the City's procurement requirements for all construction. The City will pay for the cost of oversizing the water-utility facilities to meet regional needs as described in Exhibit D-1. Owner and City may, pursuant to current ordinances, implement a Recapture Agreement to be reimbursed for certain costs of the waterline by other property owners along the waterline extension.
- 6.2. Construction of Public and Other Related Improvements. Following construction of the Water Facilities, dedication of the Water Facilities to the City, and acceptance by the City Engineer as prescribed in the Flagstaff City Code, the City agrees to assume, at its expense, the ownership, maintenance and repairs of the Water Facilities in accordance with City policies. The Owner, however, warrants

workmanship and material for the Water Facilities to the benefit of the City for a period of one (1) year from the date of acceptance.

- 6.3. Water Main. Responsibility for Repairs and Replacements. Indemnification. Owner shall provide the City all required easements for the on-site water main and the easements necessary to access the main upon reasonable request. Owner will obtain required permits or other required land rights from Coconino County for all facilities placed in County right-of-way. The Owner agrees to provide a diagram of all property that may be served by any main and appurtenances upon completion and acceptance of the work by the City. The Owner is responsible for any and all repairs or replacements that become necessary as a direct or indirect result of the creation, building or construction of the Water Facilities, including but not limited to repairs or replacement of sidewalks, paving or other utilities. The Owner agrees to indemnify and hold harmless the City from any loss or damage of any nature arising in connection with any act or omission of Owner, its agents, employees, contractors or subcontractors in the course of the performance of the Owner's obligations under this Section 6.

7. City Water Services.

- 7.1. Comparable Service. Once the Water Facilities are accepted by the City Engineer, the City agrees to provide the Property with comparable levels of water infrastructure and services to the level generally provided for like properties in the City of Flagstaff.
- 7.2. Approval of Plan for Facilities. The City, by executing this Agreement, approves the Water Facilities as shown on Exhibit D hereto and more particularly described by the design prepared by Turner Engineering, Inc. In the case of conflict between Exhibit D and the design and construction documents prepared by Turner Engineering, Inc., the more detailed plan controls.
- 7.3. Coordination of Facilities and Timing of Annexation. Owner and City shall mutually cooperate to coordinate the timing of the Water Facilities installation to the Property. This Preannexation Agreement must be filed by the Owner with the Coconino County Recorder before the City begins to provide additional water services to parcels 116-04-008E and 116-04-003Y as a result of the construction of the Water Facilities.
- 7.4. Water Connection and Capacity Fees, Out-of-City Service. The parties expressly acknowledge and agree that when the new and additional water service is established for parcels 116-04-008E and 116-04-003Y as the result of the construction of the Water Facilities, Owner shall pay those water-capacity fees generally required by the Flagstaff City Code as a condition for connecting to the City's water distribution system, whether or not the County Property has been annexed. The size of the meter purchased with the water-capacity fees will determine the allocation of water capacity consistent with the City's ordinances

said parcel contains 0.0164 acres of land, more or less, including any easements of record over the above described parcel.

PARCEL 4:

BEGINNING at the 1/4 of said Sections 24 and 25, said point being a found 3" Cap, thence S 00° 53' 23" W [Basis of Bearing (1/4 corner to Northeast section corner): N 88° 44' 28" E (R1)], along the North-South centerline of said Section 25, for a distance of 29.85 feet to a found Cap 14671, said point being a non-tangent point of curvature;

thence Northwesterly along a curve to the right, having a central angle of 19° 42' 24" and a radius of 500.00 feet, for a distance of 171.97 feet, the chord of said curve bears N 81° 18' 57" W for 171.13 feet, to a found Cap 14671, said point being a point of tangency;

thence N 71° 27' 45" W for a distance of 221.77 feet to a found Cap 14671, said point being on the Southerly Right-of-Way line of Flagstaff Ranch Road as shown on Westwood Estates recorded in Case 6, Map 35;

thence N 88° 39' 55" E, along said Southerly Right-of-Way line, for a distance of 38.94 feet, to a found Cap 18215, said point being a non-tangent point of curvature;

thence Northeasterly along the Easterly Right-of-Way line of said Flagstaff Ranch Road, along a curve to the left, having a central angle of 00° 26' 32.3" and a radius of 4777.44 feet, for a distance of 36.88 feet, the chord of said curve bears N 16° 37' 59" E for 36.88 feet to a set 1/2" rebar w/Cap 14671, said point being a non-tangent point;

thence S 76° 16' 51" E for a distance of 186.99 feet to a set 1/2" rebar w/Cap 14671, said point being a point of curvature;

thence Southeasterly along a curve to the left, having a central angle of 13° 43' 09" E and a radius of 250.00 feet, for a distance of 59.86 feet, the chord of said curve bears S 83° 08' 26" E for 59.72 feet, to a set 1/2" rebar w/Cap 14671, said point being a point of tangency;

thence East for a distance of 467.01 feet to a point on the West parcel line of a parcel described in a Combination/Split Request Form recorded in Docket 1359, Page 585, said parcel line also being the West corporate limit line of the City of Flagstaff;

thence S 13° 07' 30" W, along said West parcel line, for a distance of 44.35 feet to a point on the Section line between said Sections 24 and 25;

thence S 88° 44' 27" W, along said section line, for a distance of 367.57 feet to the **POINT OF BEGINNING**,

said parcel contains 0.9326 acres of land, more or less, including any easements of record over the above described parcel, as shown as the above mentioned parcel numbers on "Results of Survey" map recorded in Book 18 of Surveys, Map 37, which is made a part hereof by this reference.

NES # 01-112-C.



Descriptive Title _____

City File No. _____



3360226
Page: 7 of 7
E

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Adam Miele, Senior Project Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Contract: Consideration and Approval of Contract: Construction Manager at Risk Construction Contract for Street Maintenance Program 2015 - Phase 2 with C and E Paving and Grading, LLC in the amount of \$2,904,883.71 ***(Street Maintenance Program 2015).***

RECOMMENDED ACTION:

- 1) Approve the Construction Manager at Risk Construction Contract with C and E Paving and Grading, LLC in an amount not to exceed \$2,904,883.71 for Guaranteed Maximum Price (GMP).
- 2) Authorize Change Order Authority of 5% for GMP3 in the amount of \$ 145,244.19, to cover potential costs associated with unanticipated or additional items of work.
- 3) Authorize the City Manager to execute the necessary documents

Executive Summary:

Approval of this contract will allow the City to complete construction of Phase 2 of the 2015 Street Maintenance (SM) Program. This second phase of the 2015 SM project will consist of only overlay streets.

The Overlay portion of the program, which includes an additional 19 streets from the initial Street Maintenance program that improved 16 streets. This project is funded from the recently voter-approved Road Repair and Street Safety Initiative, which shows voters that we are keeping promises made during the campaign that we would begin projects right away. If approved, the City will have overlayed a total of 35 streets throughout the city.

The addition to this year's program is very extensive due to the voter-approved initiative and will impact many residents and businesses on the east side of town. We will do our best to inform the public and nearby residents and businesses of the areas we will be working in and mitigate as many impacts as possible during construction.

If the contract is approved as presented, we anticipate starting construction Jul 1. Approval of the contract will further demonstrate Council's commitment to maintaining City infrastructure through the annual budgeting process as well as improving infrastructure through the first project utilizing funding approved by voters last November.

Financial Impact:

Funding for the phase 2 overlay is to be provided by the 2014 voter approved sales tax increase in account 046-06-163-3321-6.

Connection to Council Goal and/or Regional Plan:**Council goals**

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 11) Ensure that we are as prepared as possible for extreme weather events

Regional Plan

- Goal LU.7. Provide for public services and infrastructure.
- Goal LU.10. Increase the proportion of urban neighborhoods to achieve walkable, compact growth.
- Goal T.1. Improve mobility and access throughout the region.
- Goal T.2. Improve transportation safety and efficiency for all modes.
- Goal T.8. Establish a functional, safe, and aesthetic hierarchy of roads and streets.

Has There Been Previous Council Decision on This:

Yes. Council previously approved the design phase services contract on November 18, 2014. Council previously approved the Phase 1 construction contract (overlays and chip seals) on March 3, 2015 for \$6,203,665.68.

Options and Alternatives:

- 1. Approve the Construction Manager at Risk Construction Phase Services Agreement as presented.
- 2. Reject the Agreement and direct staff to pursue traditional design-bid-build project delivery. This would delay progress on the project by three months.

Background/History:

The City has established an annual program to maintain existing street pavements. This year, the program provides three major services: non-structural upgrades by overlay, ADA compliance and chip sealing.

The overlay streets are selected after evaluation of the street condition using pavement management software owned by the City. One half of the City street pavements are evaluated and ranked each year. Each street pavement is assigned an overall condition index (OCI) based on the type and severity of the distress observed. A pavement that has no distress is given an OCI of 100. Each pavement distress such as cracking or roughness reduces the street's OCI. The street pavements are ranked by OCI and the pavements exhibiting the most severe distress are programmed for resurfacing with asphaltic concrete overlays as budget allows.

In recent years, the Arizona State Legislature has authorized the use of Alternative Project Delivery Methods (APDM) in lieu of the traditional Design-Bid-Build method of project delivery. These alternative methods allow a contracting agency the opportunity to select a construction team utilizing a Qualifications Based selection process to procure construction services from a firm deemed most qualified to perform the work. The enabling legislation also allows for provision of multiple Guaranteed Maximum Prices under a single procurement.

On November 18, 2014, Council approved award of the Design Phase Services Contract for the 2015, 2016 and 2017 programs to C and E Paving and Grading, LLC. in the amount of \$ 112,821. Design Phase Services including program and budget evaluation, project scheduling, design document reviews, constructability reviews, detailed cost estimating, and preparation of final construction documents have now been completed. Based upon the Design Phase Services, C and E Paving and Grading, LLC has provided a Guaranteed Maximum Price (GMP) to complete construction of the annual improvement project. The GMP includes costs for construction, a CM at Risk contingency, construction fee, costs for General Conditions including bonds and insurance, and sales taxes.

Key Considerations:

The goal of the Street Maintenance Program is to use the available funds in the most efficient manner to lengthen the service life of the City street pavements and avoid costly pavement reconstruction. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

Expanded Financial Considerations:

The combined financial investment from the original 2015 Street Maintenance Project and the proposed Phase 2 2015 Street Maintenance Project will be \$9.1 Million dollars on the City's streets.

The goal of the Street Maintenance Program is to use the available funds in the most efficient manner to lengthen the service life of the City street pavements and avoid costly pavement reconstruction. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

Community Benefits and Considerations:

The Street Maintenance Program provides surface treatments as required to preserve and maintain pavement condition on the 664 lane miles of asphalt City streets. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

Use of the Construction Manager at Risk method of project delivery eliminates the need for an advertisement/bid/award process and cuts approximately two months off the project development schedule. In addition, value engineering, constructability reviews and design input conducted as part of this service agreement have the potential to realize significant construction cost savings over the traditional design-bid-build delivery method.

Community Involvement:

Inform - The Public Works Division will prepare weekly news releases that are distributed to the local media outlets describing the location of the street construction and any traffic restrictions planned for the week. The contractor will distribute written notices to all the adjacent businesses and residents in advance of the construction. In addition, site maps of the streets planned for construction activities will be provided on the City's website.

Attachments:

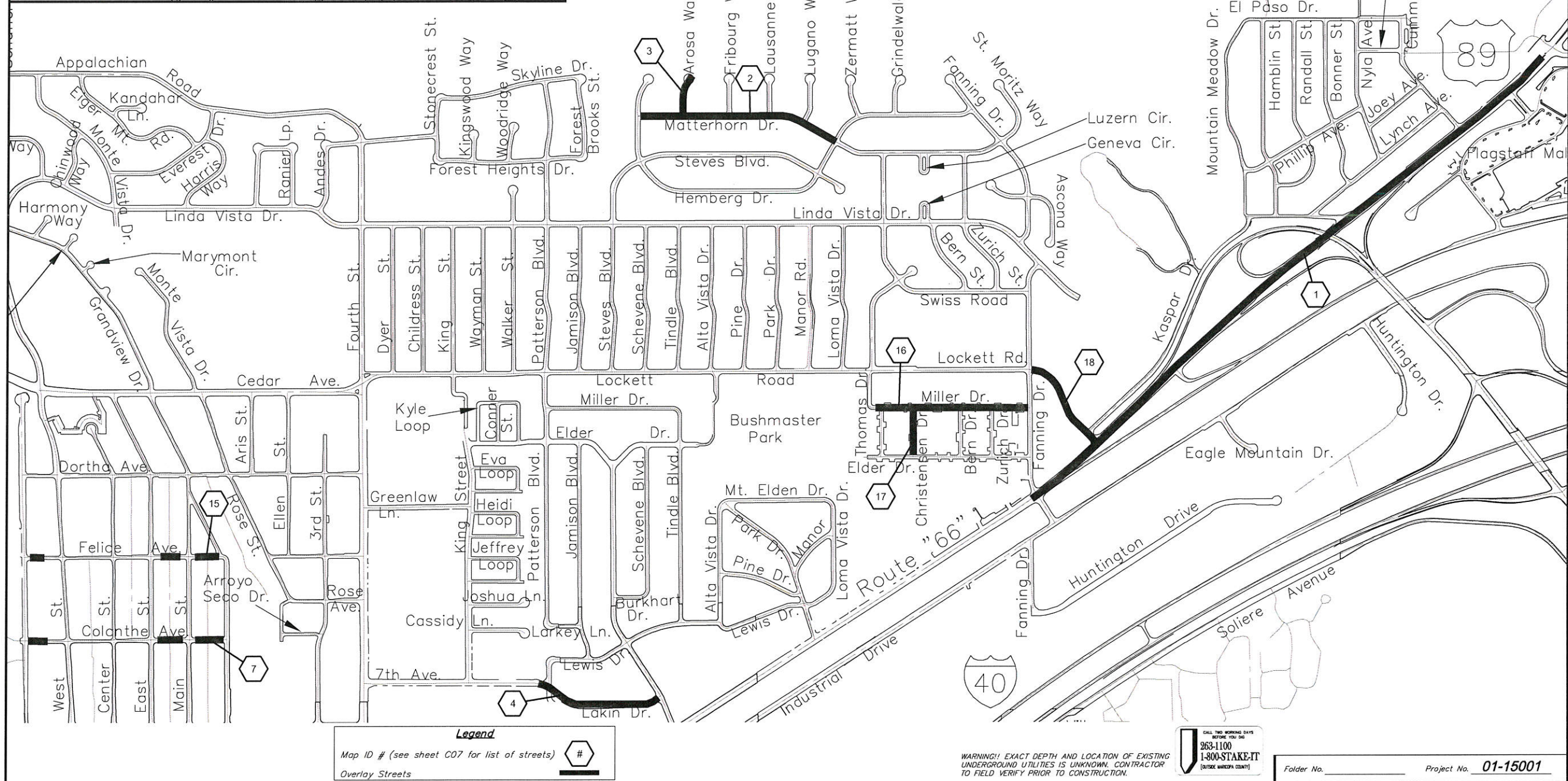
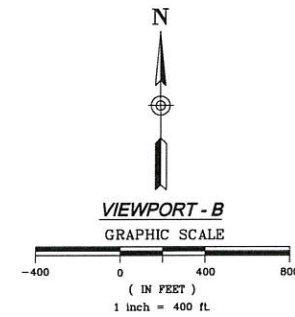
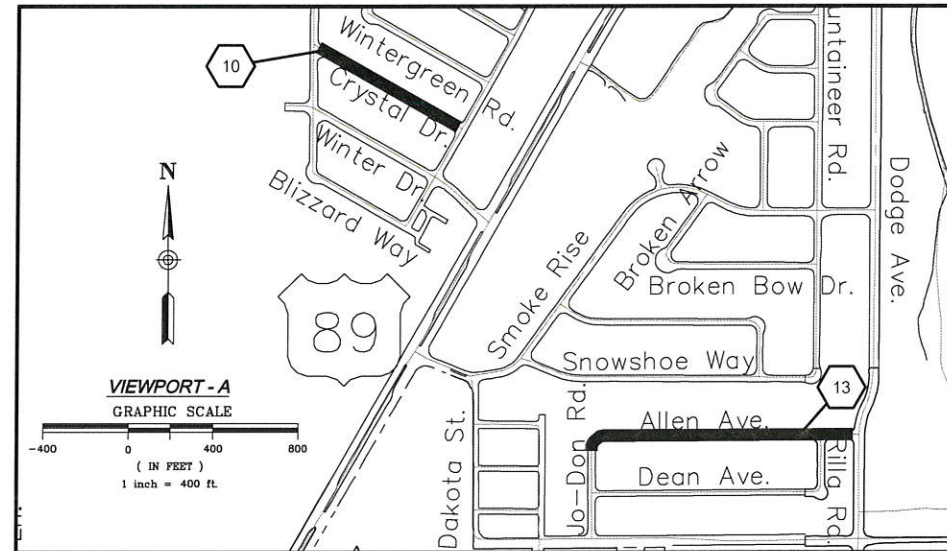
Overlay Streets List

Overlay Streets Map

Construction Contract - Phase 2

Phase 2 - GMP 3

2015 COF Streets- Phase 2- Overlay Street List							
Map ID	Street Name	Start	End	Length FT	Width FT	MAC Thickness IN	OCI Treatment
1	N. Highway 89A	Marketplace	Fanning	5,409.00	96.48	1.50	47.39 MAC & CF & RS
2	Matterhorn Dr.	Hemberg Dr.	Lugano Way	1,593.00	37.00	1.25	35.43 MAC & CF
3	Arosa Way	Matterhorn Dr.	North End	319.00	39.62	1.25	49.28 MAC & CF
4	Lakin Dr.	Stevens Blvd.	7th Ave.	1,065.00	45.89	1.25	46.25 MAC & CF & RS
5	Running Deer St.	Bear Paw Dr.	Plateau Dr.	777.00	33.00	1.25	37.38 MAC & CF
6	Wood Hollow Way	Rustic Knolls Ln.	East End	906.00	38.21	1.25	39.54 MAC & CF
7	Colanthe Ave.	Izabel St.	1st St.	534.00	31.07	1.25	39.65 MAC & CF & RS
8	Strawberry Way	Bottlebrush Dr.	End	440.00	40.10	1.25	43.56 MAC & CF
9	Fallen Oak Way	Raintree Rd.	End	623.00	47.95	1.25	44.83 MAC & CF
10	Crystal Dr.	Snowflake Dr.	Christmas Tree Ln.	764.00	35.83	1.25	48.73 MAC & CF
11	Tam O'Shanter Dr.	Meadowbrook Dr.	North End	1,734.00	26.87	1.25	48.81 MAC & CF
12	Pinecone Ln.	Cypress Point Dr.	End	192.00	49.09	1.25	45.95 MAC & CF
13	Allen Ave.	Dodge Ave.	Jo Don Rd.	1,278.00	34.13	1.25	49.05 MAC & CF & RS
14	Little Dr.	Walkup Dr.	Troxler Cir.	2,014.00	38.94	3.00	45.63 CONVENTIONAL
15	Felice Ave.	1st St.	Izabel St.	456.00	32.70	1.25	46.38 MAC & CF & RS
16	Miller Dr.	Fanning Dr.	Road Closed Signs	1,216.00	29.29	1.25	51.49 MAC & CF & RS
17	Christensen Dr.	Miller Dr.	Elder Dr.	363.00	30.10	1.25	47.77 MAC & CF
18	Lockett Rd.	Route 66	Fanning Dr.	767.00	42.51	1.25	48.15 MAC & CF & RS
19	Broken Circle Dr.	Burning Tree Lp.	Rio De Flag Dr.	1,086.00	33.62	1.25	48.72 MAC & CF
20	Range Ln.	Foxglen St.	Dead End	157.00	44.85	1.25	49.33 MAC & CF



Key Map Sheet 1
Streets Maintenance Program 2015
Flagstaff, Arizona

DESIGN	DATE	SR	DATE	SR	DATE	SR
1242	12/01/15	1242	12/01/15	1242	12/01/15	1242

PLATEAU ENGINEERING
323 N. SAN FRANCISCO ST., SUITE 201
FLAGSTAFF, ARIZONA 86001
(928) 556-0311 FAX (928) 213-8614

PRELIMINARY
DO NOT CONSTRUCT

03 SHEET NO. **05**
C03

Folder No. _____ Project No. **01-15001**

WARNING!! EXACT DEPTH AND LOCATION OF EXISTING UNDERGROUND UTILITIES IS UNKNOWN. CONTRACTOR TO FIELD VERIFY PRIOR TO CONSTRUCTION.

CALL TWO WORKING DAYS BEFORE YOU DIG
263-1100
1-800-STAKE-IT
(OUTSIDE MARICOPA COUNTY)



City of Flagstaff, Arizona

Street Maintenance Program 2015, 2016, 2017

CONSTRUCTION MANAGER AT RISK CONSTRUCTION SERVICES

PROJECT NO. 01-15001

Agreement No. 2015-08-2

GMP Agreement Number: Three

MAYOR
GERALD W. NABOURS

CITY COUNCIL

KARLA BREWSTER
SCOTT OVERTON
CORAL EVANS

CELIA BAROTZ
JEFF ORAVITS
EVA PUTZOVA

CITY MANAGEMENT

Interim City Manager
Jeff Meilbeck

Utilities Director
Brad Hill

Community Development Director
Mark Landsiedel

Public Works Director
Erik Solberg

TABLE OF CONTENTS

	PAGE
RECITALS.....	1
ARTICLE 1 - DEFINITIONS	1
ARTICLE 2 – CMAR’S SERVICES AND RESPONSIBILITIES	5
ARTICLE 3 - CITY’S SERVICES AND RESPONSIBILITIES	12
ARTICLE 4 - CONTRACT TIME	14
ARTICLE 5 - CONTRACT PRICE	18
ARTICLE 6 - CHANGES TO THE CONTRACT PRICE AND TIME	19
ARTICLE 7 - PROCEDURE FOR PAYMENT	22
ARTICLE 8 – CLAIMS AND DISPUTES	25
ARTICLE 9 – SUSPENSION AND TERMINATION	27
ARTICLE 10 - INSURANCE AND BONDS.....	29
ARTICLE 11 - INDEMNIFICATION	32
ARTICLE 12 - GENERAL PROVISIONS.....	33
SIGNATURE PAGE	39
EXHIBIT A – PROJECT DESCRIPTION	
EXHIBIT B – APPROVED GMP PROPOSALS	
EXHIBIT C – REVISIONS OF MAG STANDARD SPECIFICATIONS	
EXHIBIT D – SPECIAL PROVISIONS	

CITY OF FLAGSTAFF, ARIZONA

Street Maintenance Program 2015, 2016, 2017

CONSTRUCTION MANAGER AT RISK

CONSTRUCTION SERVICES AGREEMENT

PROJECT No. 01-15001; GMP 3; Agreement No. 2015-08-2

This Construction Services Agreement ("Agreement"), is made and entered into by and between the City of Flagstaff, an Arizona municipal corporation ("City"), and C and E Paving and Grading, LLC. ("Construction Manager at Risk" or [CMAR](#)) on this ____ day of _____, 20__.

RECITALS

- A.** The City is authorized and empowered by provisions of the City Charter to execute agreements for construction services.
- B.** The City intends to construct the Street Maintenance Program 2015, 2016, and 2017 projects as more fully described in Exhibit "A" attached ("Project").
- C.** To undertake the construction administration of the Project the City has entered into a separate agreement with Plateau Engineering, Inc. ("Design Professional.")
- D.** CMAR has represented to the City that it has the ability to provide construction services for the Project, and based on this representation, the City hereby engages CMAR to provide these services and construct the Project.
- E.** Agreement #2015-08 has been executed previously between the City and CMAR to perform design phase services for the Project. Those services may continue during the duration of this Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and CMAR as follows:

Article 1 - Definitions

"Agreement" - This written document signed by the City and CMAR covering the construction phase of the Project, and including other documents itemized and referenced in, or attached to, and made part of this Agreement.

"Change Directive" - A written order prepared and signed by the City, directing a change in the Work prior to agreement on an adjustment in the Contract Price and the Contract Time.

"Change Order" - A type of Contract amendment issued after execution of the Contract Documents or future GMP Amendments signed by the City and CMAR, agreeing to changes to a GMP, for substantial unanticipated alterations in the character of Work. The Change Order shall state the following: the addition, deletion or revision in the scope of Work; the amount of the adjustment to the Contract Price; and the extent of the adjustment to the Contract Times or other modifications to Agreement terms.

"The City ("Owner" or "OWNER") - The City of Flagstaff, a municipal corporation, with whom CMAR has entered into this Agreement and for whom the services are to be provided pursuant to said Contact. Regulatory activities handled by the City of Flagstaff Community Development, Fire and Planning Departments or any other City Department are not subject to the responsibilities of the City under this Agreement.

"City's Representative" - The person designated in Subsection 8.3.1.2.

"City's Senior Representative" - The person designated in Subsection 8.3.1.1.

"CMAR" - The firm selected by the City to provide construction services as detailed in this Agreement.

"CMAR's Contingency" - A fund to cover cost growth during the Project used at the discretion of CMAR usually for costs that result from Project circumstances. The amount of CMAR's Contingency shall be negotiated as a separate line item in each GMP package. Use and management of CMAR's Contingency is described in Subsection 5.3.1.

"CMAR's Representative" - The person designated in Subsection 8.3.2.2.

"CMAR's Senior Representative" - The person designated in Subsection 8.3.2.1.

"Construction Documents" - Certain plans, specifications and drawings prepared by the Design Professional after correcting for permit review requirements or dated plans and specifications specifically identified as the "Construction Documents" herein or in an Exhibit or Addendum which is attached hereto.

"Construction Fee" - CMAR's administrative costs, home office overhead, and profit as applicable to this Project whether at CMAR's principal or branch offices.

"Contract Documents" - The following items and documents in descending order of precedence executed by the City and CMAR: (i) all written modifications, amendments and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) GMP Plans and Specifications.

"Contract Price" - The amount or amounts set forth in Article 5.

"Contract Time" - The days, as set forth in Article 4, the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work, subject to Winter Shutdown.

"Cost of the Work" - The direct costs necessarily incurred by CMAR in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees, materials testing, and related items. The Cost of the Work shall not include CMAR's Construction Fee, General Conditions Costs, and taxes.

"Critical Path Method" - A scheduling technique used to predict project duration by analyzing which sequence of activities has the least amount of scheduling flexibility thus identifying the path (sequence) of activities which represent the longest total time required to complete the Project. Delay in completion of the identified activities shall cause a delay in achieving Substantial Completion.

"Day(s)" - Calendar days unless otherwise specifically noted in the Contract Documents.

“Design Phase Contract” - The agreement between the City and CMAR for Services provided by CMAR during the design phase which may include the following: design recommendations, Project scheduling, constructability reviews, alternate systems evaluation, cost estimate, Minority Business Enterprise/Woman’s Business Enterprise/Small Business Enterprise (**“MBE/WBE/SBE”**) utilization, subcontractor bid phase services, GMP preparation and other services set forth in this Agreement or reasonably inferable therefrom.

“Design Professional” - A qualified, licensed design professional who furnishes, design, construction documents, and/or construction administration services required for the Project.

“Differing Site Conditions” - Concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

“Final Completion” - 100% completion of all construction Work noted in or reasonably inferred from the Contract Documents, including but not limited to all Punch Lists work, all record and close-out documents specified in Owner’s Project specifications and Owner training/start up activities.

“Float” - The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

“General Conditions Costs” - Includes, but is not limited to the following types of costs for CMAR during the construction phase: (i) payroll costs for Project manager or CMAR for work conducted at the Site, (ii) payroll costs for the superintendent and full-time general foremen, (iii) payroll costs for other management personnel resident and working at the Site, (iv) workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.), (v) costs of offices and temporary facilities setup solely for this Project including office materials, office supplies, office equipment and minor expenses, (vi) cost of utilities, fuel, sanitary facilities and telephone services at the Site, (vii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs, (viii) costs of bond premiums, (ix) costs of consultants not in the direct employ of CMAR or Subcontractors.

“Guaranteed Maximum Price” or “GMP” - The sum of the maximum Cost of the Work; the Construction Fee; General Conditions Costs, taxes, and CMAR’s Contingency.

“GMP Plans and Specifications” - The plans and specifications upon which the Guaranteed Maximum Price proposal is based.

“Legal Requirements” - All applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

“Notice to Proceed” or “NTP” - The directive issued by the City, authorizing CMAR to start Work.

“Opening Physical Conditions” – The current physical conditions present on the Site as jointly documented by an inspection of the Site by City and CM@R at the Pre-construction Conference.

“Owner’s Contingency” - A fund to cover cost growth during the project used at the discretion of the Owner usually for costs that result from Owner directed changes or unforeseen Site conditions. The amount of the Owner’s contingency shall be set solely by the Owner and shall be in addition to the Project costs included in CMAR’s GMP packages. Use and management of the Owner’s contingency is described in Section 5.3.2.

"Performance Period" - The period of time allotted in the Contract Documents to complete the Work comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Master Schedule.

"Payment Request" - The City form used by CMAR to request progress payments for Work in accordance with Article 7.

"Pre-construction Conference" - A Conference held between City and CMAR prior to the commencement of any Work, as scheduled by the City's Representative or designee.

"Product Data" - Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by CMAR to illustrate materials or equipment for some portion of the Work.

"Project" - The work to be completed in the execution of this Agreement as amended and as described in the Recitals above and in Exhibit "A" attached.

"Project Record Documents" - The documents created pursuant to Section 2.10.

"Samples" - Physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work shall be evaluated.

"Schedule of Values" - A statement furnished by CMAR to the City's Representative for approval, reflecting the portions of the GMP allotted for the various parts of the work and used as the basis for evaluating CMAR's applications for progress payments.

"Shop Drawings" - Drawings, diagrams, schedules and other data specially prepared for the Work by CMAR or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

"Site" - Land or premises on which the Project is located.

"Specifications" - The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

"Subcontractor" - An individual or firm having a direct Agreement with CMAR or any other individual or firm having an Agreement with the aforesaid Contractors at any tier, who undertakes to perform a part of the construction phase Work for which CMAR is responsible.

"Submittals" - Documents and/or things that may be produced or presented by one party for consideration review or such other actions as may be required by this Agreement by another party, entity or person. Examples of Submittals include, but are not limited to, preliminary or evolving drafts, product data samples, etc.

"Substantial Completion" - The established date when the Work or designated portion thereof is sufficiently complete, in accordance with the Contract Documents so that the Owner may occupy the Work, or designated portion thereof, for the use for which it is intended. This may include, but is not limited to: (i) Approval by the City or State Fire Marshall and/or other state or local authorities having jurisdiction over the Work or a portion thereof (Certificate of Occupancy); (ii) all systems in place, functional, and displayed to, and accepted by, the City or its representative; (iii) City operation and maintenance training complete; (iv) HVAC test and balance completed with reports provided to the Design Professional for review; (v) Operational and Maintenance manuals and final Project Record Documents delivered to the City or Design Professional for review.

"Supplier" - A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct agreement with CMAR or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any Subcontractor.

"Winter Shutdown" – The period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project.

"Work" - The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

Article 2 - CMAR's Services and Responsibilities

2.0 CMAR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the same and install the material therein for the City. All Work shall be performed in a good and workmanlike and substantial manner and within the care and skill of a qualified CMAR in Flagstaff, Arizona. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Project's Contract Documents. It is not required that the services be performed in the sequence in which they are described.

2.1 General Services

2.1.1. CMAR's Representative shall be reasonably available to the City and shall have the necessary expertise and experience required to supervise the Work. CMAR's Representative shall communicate regularly with the City but not less than once a week and shall be vested with the authority to act on behalf of CMAR. CMAR's Representative may be replaced only with the written consent of the City.

2.2 Government Approvals and Permits

2.2.1 Unless otherwise provided, CMAR shall obtain all applicable and/or necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. CMAR is specifically reminded of the need to obtain the applicable and/or necessary environmental permits or file the applicable and/or necessary environmental notices.

2.2.2 Copies of the permits and notices listed in Subsection 2.2.1 above must be provided to the City's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the City's Representative. This provision does not constitute an assumption by the City of an obligation of any kind for violation of said permit or notice requirements.

2.2.3 City shall be responsible for City of Flagstaff review and permit(s) fees for building and demolition permits. City shall also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility design fees for permanent services.

2.2.4 CMAR shall be responsible for all other permits and review fees not specifically listed in

Subsection 2.2.3 above.

- 2.2.5** CMAR is responsible for the cost of water meter(s), water and sewer taps, fire lines and taps, and all water bills on the project meters until Substantial Completion of the Project. Arrangements for construction water are CMAR's responsibility.

2.3 Pre-construction Conference

- 2.3.1** Prior to the commencement of any Work, the City's Representative or designee shall schedule and conduct a Preconstruction Conference. At the Pre-construction Conference, City and CM@R shall document the Opening Physical Conditions of the Site as jointly documented by an inspection of the Site by City and CMAR at the Pre-Construction.

- 2.3.2** The purpose of this conference is to establish a working relationship between CMAR, utility firms, and various City agencies. The agenda shall include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, Payment Requests and processing, coordination with the involved utility firms, the level of Project Record Documents required and emergency telephone numbers for all representatives involved in the course of construction.

- 2.3.3** The Notice to Proceed date shall be concurred with by the parties or set by the City at the Preconstruction Conference. After the meeting and upon receipt of a signed Agreement and delivery of the required bonds and insurance in a City approved format, a Notice to Proceed letter shall be issued confirming the construction start date, Performance Period and if applicable, the Substantial Completion date. If a Substantial Completion date is established the conditions of the Substantial Completion shall be listed and/or as set forth in Article 1 herein. Failure by CMAR to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it shall not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

- 2.3.4** CMAR shall provide a Schedule of Values based on the categories used in the buy out of the Work but not greater than the approved GMP and identifying CMAR's Contingency. The Schedule of Values shall subdivide the Work into all items comprising the Work. The Schedule of Values shall contain sufficient detail to identify each individual element of the Work and shall relate to the approved GMP Schedule. The Schedule of Values shall be subject to approval by the City's representative.

- 2.3.5** Minimum attendance by CMAR shall be CMAR's Representative, who is authorized to execute and sign documents on behalf of the firm, the job superintendent, and CMAR's safety officer.

2.4 Control of the Work

- 2.4.1** Unless otherwise provided in the Contract Documents to be the responsibility of the City or a separate Contractor, CMAR shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit CMAR to complete the Work consistent with the Contract Documents.

- 2.4.2** CMAR shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. CMAR shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

- 2.4.3** CMAR's Representative or CMAR's Superintendent shall be present at the Site at all times that construction activities are taking place.

- 2.4.3.1** All elements of the Work shall be under the direct supervision of a foreman or his designated

representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the work.

2.4.3.2 In the event of noncompliance with this Section, the City may require CMAR to stop or suspend the Work in whole or in part.

2.4.4 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is CMAR's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

2.4.5 Before ordering materials or doing work, CMAR and each Subcontractor shall verify measurements at the Site and shall be responsible for the correctness of such measurements. No extra charge or compensation shall be allowed because of differences between actual dimensions and the dimensions indicated on the drawings; differences which may be found shall be submitted to the City for resolution before proceeding with the Work.

2.4.6 CMAR shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to CMAR with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the City at once.

2.4.7 CMAR shall establish and maintain all building and construction grades, lines, levels, and bench marks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a civil engineer or surveyor licensed as such in the State of Arizona.

2.4.8 Any person employed by CMAR or any Subcontractor who, in the opinion of the City, does not perform his or her work in a proper, skillful, and safe manner or is intemperate or disorderly shall, at the written request of the City, be removed from the Work by CMAR or Subcontractor employing such person, and shall not be employed again in any portion of Work without the written approval of the City. CMAR or Subcontractor shall hold the City harmless from damages or claims which may occur in the enforcement of this Section.

2.4.9 CMAR assumes responsibility to the City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.4.10 CMAR shall coordinate the activities of all Subcontractors. If the City performs other work on the Project or at the Site with separate contractors under the City's control, CMAR agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.5 Control of the Work Site

2.5.1 Throughout all phases of construction, including suspension of Work, CMAR shall keep the Site reasonably free from debris, trash and construction wastes to permit CMAR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, CMAR shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit the City to occupy the Project or a portion of the Project for its intended use.

2.5.2 CMAR shall take whatever steps, procedures or means to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the

satisfaction of the City and in accordance with the requirements of the Arizona Department of Environmental Quality rules and regulations.

2.5.3 CMAR shall maintain ADA, ADAAG and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA, ADAAG and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. CMAR shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

2.5.4 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Site by CMAR. When equipment is no longer required for the Work, it shall be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of CMAR.

2.6 Shop Drawings, Product Data and Samples

2.6.1 Shop Drawings, Product Data, Samples and similar Submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which Submittals are required, the way CMAR proposes to conform to the information given and the design concept expressed in the Contract Documents.

2.6.2 CMAR shall review, approve, verify, and submit to the City five copies of each Shop Drawing, Product Data, Sample, and similar Submittals required by the Contract Documents in accordance with the approved GMP schedule as shown in Exhibit "B" as to cause no delay in the Work or in the activities of the City or of separate contractors. Submittals made by CMAR, which are not required by the Contract Documents, may be returned without action.

2.6.3 CMAR shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar Submittals until the respective submittal has been approved by the City or City's designee. Such Work shall be in accordance with approved Submittals.

2.6.4 By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar Submittals, CMAR represents that CMAR has determined and verified materials, field measurements and field construction criteria related thereto, or shall do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents.

2.6.5 CMAR shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the City's approval of Shop Drawings, Product Data, Samples or similar Submittals unless CMAR has specifically informed the City in writing of such deviation at the time of submittal and the City has given written approval to the specific deviation. CMAR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar Submittals by the City's approval thereof.

2.6.6 CMAR shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar Submittals, to revisions other than those requested by the City on previous Submittals.

2.6.7 Informational Submittals upon which the City is not expected to take responsive action may be so identified in the Contract Documents.

2.6.8 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the City shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.7 Quality Control, Testing and Inspection

- 2.7.1** All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.
- 2.7.2** All construction materials to be used on the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the City. Any material rejected by the City shall be removed immediately and replaced in an acceptable manner.
- 2.7.3** The procedures and methods used to sample and test material shall be determined by the City. Unless otherwise specified, samples and tests shall be made in accordance with the most recently adopted edition of the City of Flagstaff Engineering Division Design and Construction Standards and Specifications.
- 2.7.4** The City shall select a City or Independent Testing Laboratory and shall pay for initial City Acceptance Testing.
- 2.7.4.1** When the first and/or subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and the cost of all tests, except the first test, shall be paid for by CMAR. CMAR's Contingency cannot be utilized for the cost of re-testing.
- 2.7.4.2** When the first and/or subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.
- 2.7.5** CMAR shall cooperate with the selected testing laboratory and all others responsible for testing and inspecting the work and shall provide them access to the Work at all times.
- 2.7.6** At the option of the City, materials may be approved at the source of supply before delivery is started.
- 2.7.7** Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid by CMAR, unless otherwise provided in the Contract Documents.
- 2.7.8** CMAR's convenience and quality control testing and inspections shall be the sole responsibility of CMAR and paid by CMAR.
- 2.8 Trade Names and Substitutions**
- 2.8.1** Unless indicated that no substitutions are permitted, CMAR may request a substitution or alternative to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number, subject to the following:
- 2.8.2** The substitution shall be submitted by CMAR in writing to the City.
- 2.8.3** CMAR shall certify that the substitution shall perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.
- 2.8.4** The submittal shall state any required changes in the Contract Documents to adapt the design to the proposed substitution.
- 2.8.5** The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any adjustment in the Contract Time created by the substitution.

- 2.8.6** CMAR if requested by the City shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.
- 2.8.7** The City shall make the final decision and shall notify CMAR in writing as to whether the substitution has been accepted or rejected.
- 2.8.8** If the City does not respond in a timely manner, CMAR shall continue to perform the Work in accordance with the Contract Documents and the substitution shall be considered rejected.
- 2.9 Project Record Documents**
- 2.9.1** During the construction period, CMAR shall maintain at the Site a set of blueline or blackline prints of the Construction Document drawings and shop drawings for Project Record Document purposes.
- 2.9.1.1** CMAR shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents. CMAR shall give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:
- Dimensional changes to the drawings.
 - Revisions to details shown on drawings
 - Depths of foundations below first floor
 - Locations and depths of underground utilities
 - Revisions to routing of piping and conduits.
 - Revisions to electrical circuitry.
 - Actual equipment locations.
 - Duct size and routing.
 - Locations of concealed internal utilities.
 - Changes made by Change Order, Change Order Directive, Field Order, Record of Field Change, ASI's and RFI's.
 - Addenda and other details not on original Agreement Drawings.
- 2.9.1.2** CMAR shall mark completely and accurately Project Record Drawing prints of Construction Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents location.
- 2.9.1.3** CMAR shall mark Project Record Drawings sets with red erasable colored pencil.
- 2.9.1.4** CMAR shall note RFI Numbers, ASI Numbers and Change Order numbers, etc., as required to identify the source of the change to the Construction Documents.
- 2.9.1.5** CMAR shall, as a condition of Substantial Completion, submit Project Record Drawing prints and Shop Drawings to the City or its representative for review and comment.
- 2.9.2** Upon receipt of the reviewed Project Record Drawings from the City, CMAR shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:
- 2.9.2.1** CMAR shall provide a complete set of electronic Project Record Drawings prepared in AutoCAD format compatible with City of Flagstaff CADD technology. The Design Professional shall provide files of the original Construction Documents to CMAR for the use of preparing these final Project Record Drawings or CMAR may contract with the Design

Professional to revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2.9.2.2 CMAR shall provide a complete set of reproducible mylars from the final AutoCAD drawings.

2.9.2.3 CMAR shall provide the original copy of the Project Record Drawings (redline mark-ups).

2.10 Project Safety

2.10.1 CMAR recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.10.2 CMAR assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

2.10.3 CMAR shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, CMAR's Safety Representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

2.10.4 The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with CMAR's personnel, Subcontractors and others as applicable.

2.10.5 CMAR and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable Legal Requirement.

2.10.6 CMAR shall immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to City's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.10.7 CMAR's responsibility for safety under this Section is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.11 Warranty

2.11.1 CMAR warrants to City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

2.11.2 CMAR's warranty obligation shall be for one (1) year, except for such greater period as may be required by the technical specifications.

2.11.3 Nothing in this warranty is intended to limit any manufacturer's warranty which provides The City with greater warranty rights than set forth in this Section or the Contract Documents. CMAR shall provide City with all manufacturers' warranties upon Substantial Completion.

- 2.11.4** Nothing in this warranty is intended to limit any other remedy at law that may be available to the City.
- 2.12 Correction of Defective Work**
- 2.12.1** CMAR agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.12 above, within a period of one (1) year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents, or as may be available to the City by law. A progress payment, or partial or entire use or occupancy of the Project by the City, shall not constitute acceptance of Work not in accordance with the Contract Documents.
- 2.12.2** During the performance of the Work, CMAR shall take meaningful steps to commence correction of such nonconforming Work as notified by the City or as discovered by CMAR. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps during the performance of the Work, City, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that City shall commence correction of such nonconforming Work with its own forces.
- 2.12.3** CMAR shall, take meaningful steps to commence correction of nonconforming Work subject to Section 2.12 and/or Section 2.13.1 above, within seven (7) days of receipt of written notice from City. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps within such seven-day period, City, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that City shall commence correction of such nonconforming Work with its own forces. If City does perform such corrective Work, CMAR shall be responsible for all reasonable costs incurred by City in performing such correction.
- 2.12.4** For nonconforming Work that creates an emergency requiring an immediate response, CMAR shall respond and initiate corrections within twenty-four hours.
- 2.12.5** The one year period referenced in Subsection 2.13.1 above applies only to CMAR's obligation to correct nonconforming Work relative to the warranty set forth in that section and is not intended to constitute a period of limitations for any other rights or remedies the City may have regarding CMAR's other obligations under the Contract Documents or as may be allowed by law.

Article 3 - The City's Services and Responsibilities

3.1 Duty to Cooperate.

- 3.1.1** City shall, throughout the performance of the Work, cooperate with CMAR and perform its responsibilities, obligations and services in a timely manner to facilitate CMAR's timely and efficient performance of the Work and so as not to delay or interfere with CMAR's performance of its obligations under the Contract Documents.
- 3.1.2** City shall furnish at CMAR's request, at no cost to CMAR, a CADD file of the Construction Documents in AutoCAD format compatible with the City of Flagstaff CADD technology.

3.2 The City's Representative

- 3.2.1** City's Representative shall be responsible for providing City (as defined in Article I) supplied information and approvals in a timely manner to permit CMAR to fulfill its obligations under the Contract Documents.
- 3.2.2** City's Representative shall also provide CMAR with prompt notice if City's Representative observes any failure on the part of CMAR to fulfill its contractual obligations, including any default or defect in the project or non-conformance with the drawings and specifications.
- 3.2.3** The City may utilize field inspectors to assist the City's Representative during construction in observing performance of CMAR. The inspector is for the purpose of assisting the City's Representative and should not be confused with an inspector with a City regulatory department.
 - 3.2.3.1** The field inspector shall be authorized to inspect all Work and materials furnished. Such inspection may extend to all or part of the Work and to the preparation, fabrication or manufacture of the materials to be used.
 - 3.2.3.2** The field inspector shall not be authorized to issue instructions contrary to the Construction Documents or to act as foreman for CMAR.
 - 3.2.3.3** The field inspector shall have the authority to reject work or materials until any questions at issue can be decided by the City's Representative.
 - 3.2.3.4** The furnishing of such services for the City shall not make the City responsible for or give the City control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs or responsibility for CMAR's failure to perform the work in accordance with Contract Documents.

3.3 Design Professional Services

- 3.3.1** The City may contract separately with one or more Design Professionals to provide construction administration of the Project. The Design Professional's Agreement as well as other firms hired by the City shall be available for review by CMAR. CMAR shall not have any right however, to limit or restrict any contract provisions and/or modifications that are mutually acceptable to the City and Design Professional.
- 3.3.2** The City may contract with the Design Professional to provide some or all of the following services during the performance of the Work.
 - 3.3.2.1** Provide oversight of the Work. The City and CMAR shall endeavor to communicate through the Design Professional. Communications by and with the Design Professional's consultants shall be through the Design Professional.
 - 3.3.2.2** Conduct Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in accordance with the Contract Documents. The Design Professional shall keep the City informed of progress of the Work and any noted defects and deficiencies of the Work, and shall endeavor to guard the City against defects and deficiencies in the Work. The Design Professional may have authority to reject construction, which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with Section 2.7.
 - 3.3.2.3** Review and recommend approval of Payment Requests.

- 3.3.2.4** Review and approve or take other appropriate action upon CMAR's Submittals such as Shop Drawings, Product Data and Samples in accordance with Section 2.6.
- 3.3.2.5** Interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the City or CMAR. The Design Professional's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.
- 3.3.2.6** Prepare Change Orders, and may authorize minor changes in the Work as provided in Section 6.6.1.
- 3.3.2.7** Conduct inspections to determine Substantial Completion and Final Acceptance.
- 3.3.2.8** Receive and forward to the City for the City's review and records written warranties and related documents required by the Contract Documents and assembled by CMAR.

3.4 City's Separate Contractors.

City is responsible for all work performed on the Project or at the Site by separate contractors under City's control. City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with CMAR in order to enable CMAR to timely complete the Work consistent with the Contract Documents.

3.5 Permit Review and Inspections

- 3.5.1** If requested by CMAR, the City's Representative shall provide assistance and guidance in obtaining necessary reviews, permits and inspections, however, the responsibility for obtaining the necessary reviews, permits and inspections remains with CMAR.
- 3.5.2** Regulating agencies of the City, such as Community Development, Fire, Planning, Building Inspection, Environmental Services, and Engineering Departments, enforce Legal Requirements. These enforcement activities are not subject to the responsibilities of the City under this Agreement.

Article 4 - Contract Time

4.0 Contract Time.

- 4.0.1** Contract Time shall start with the Notice to Proceed ("NTP") with construction services and shall end with Substantial Completion.
- 4.0.2** Where there is more than one GMP, each GMP shall establish a separate NTP date and a Performance Period. The Performance Periods for individual GMPs may be sequential or concurrent as established in the individual Notices to Proceed. The Performance Period for the GMP under this Agreement shall be **210** days starting with the NTP.
- 4.0.3** CMAR agrees that it shall commence timely performance of the Work and shall achieve substantial completion within the Performance Periods and Contract Time.
- 4.0.4** All of the times set forth in this Article 4 shall be subject to adjustment in accordance with Article 6.
- 4.0.5** Time is of the essence, for times and time matters set forth in Article 4 and the rest of this Agreement.

Pursuant to Section 9.3 below, if, in the sole discretion of the Capital Improvements Department of the City of Flagstaff, the Project is not at Substantial Completion prior to the advent of adverse weather conditions, a Winter Shutdown shall occur during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project.

4.1 Substantial Completion

- 4.1.1** Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter or as may be mutually agreed by the parties in writing. Substantial Completion shall be in accordance with its definition in Article 1 and with the criteria set forth in the Notice to Proceed.
- 4.1.2** Prior to notifying the City in accordance to Section 4.1.3 below, CMAR shall inspect the Work and prepare and submit to the City a comprehensive list of items to be completed or corrected. CMAR shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of CMAR to complete all Work in accordance with the Contract Documents.
- 4.1.3** CMAR shall notify City when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.
- 4.1.4** Within five (5) days of City's receipt of CMAR's notice, the City and CMAR shall jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.
- 4.1.5** If such Work is substantially complete, City shall prepare and issue a Certificate of Substantial Completion that shall set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed within thirty (30) calendar days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing City's and CMAR's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.
- 4.1.6** City, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 4.1.5 above, (ii) CMAR and City have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) City and CMAR agree that City's use or occupancy shall not interfere with CMAR's completion of the remaining Work.

4.2 Final Completion.

Upon receipt of written notice that the Work or identified portions of the Work is ready for final inspection and acceptance, City and CMAR shall jointly inspect to verify that the remaining items of Work have been completed as set forth in Section 4.1.5. The City shall issue a Final Completion Letter and payment pursuant to Section 7.5.

4.3 Liquidated Damages

4.3.1 CMAR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the City shall suffer damages, which are difficult to determine and accurately specify. CMAR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, CMAR shall pay the City \$___(to be determined on an agreement by agreement basis) per day as liquidated damages for each Day that Substantial Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.3.2 CMAR understands that if Final Completion is not attained within the Contract Time as adjusted, the City shall suffer damages, which are difficult to determine and accurately specify. CMAR agrees that if Final Completion is not attained within the Contract Time as adjusted, CMAR shall pay the City \$ 1,420.00 (to be determined on an agreement by agreement basis) per day as liquidated damages for each Day that Final Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.4 Project Master Schedule

4.4.1 The Project Master Schedule approved as part of a GMP shall be updated and maintained throughout the Work by CMAR.

4.4.2 The Project Master Schedule shall be revised by CMAR as required by conditions and progress of the Work, but such revisions shall not relieve CMAR of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

4.4.3 Updated Project Master Schedules shall be submitted monthly by CMAR to the City as part of the Payment Request.

4.4.3.1 CMAR shall provide City with a monthly status report with each Project Master Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the GMP and within the Contract Time.

4.4.3.2 With each schedule submittal CMAR shall include a transmittal letter including the following:

- Description of problem tasks (referenced to field instructions, requests for information ("RFI's"), as appropriate.
- Current and anticipated delays including:
 - Cause of the delay
 - Corrective action and schedule adjustments to correct the delay
 - Known or potential impact of the delay on other activities, milestones, and/or the date of Substantial Completion
- Changes in construction sequence
- Pending items and status thereof including but not limited to:
 - Time Extension requests
 - Other items
- Substantial Completion date status:
 - If ahead of schedule, the number of calendar days ahead
 - If behind schedule, the number of calendar days behind
- Other project or scheduling concerns

- 4.4.4** City's review of and response to the Project Master Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve CMAR from compliance with the requirements of the Contract Documents or be construed as relieving CMAR of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.
- 4.4.5** The Project Master Schedule shall include a Critical Path Method ("CPM") diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.
- 4.4.5.1** The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.
- 4.4.5.2** The CPM diagram schedule shall indicate all relationships between activities.
- 4.4.5.3** The activities making up the schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.
- 4.4.5.4** The CPM diagram schedule shall be based upon activities, which would coincide with the Schedule of Values.
- 4.4.5.5** The CPM diagram schedule shall show all Submittals associated with each work activity and the review time for each submittal.
- 4.4.5.6** The schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with CMAR activities.
- 4.4.5.7** The schedule shall include a critical path activity that reflects anticipated weather delay during the performance of the Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on the information set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.
- 4.4.6** The Project Master Schedule shall consider the City's and the tenants' occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.
- 4.4.7** Float time shall be as prescribed below:
- 4.4.7.1** The total Float within the overall schedule, is not for the exclusive use of either the City or CMAR, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet Agreement milestones and the Project completion date.
- 4.4.7.2** CMAR shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions shall be granted nor delay damages paid until a delay occurs which extends the Work beyond the Substantial Completion date and then only if any such extensions or damages are shown to be justified under the Contract Documents.
- 4.4.7.3** Since Float time within the schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., critical path Submittals

returned in less time than allowed by the Agreement, approval of substitution requests and credit changes which result in savings of time to CMAR, etc.). In such an event, CMAR shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

Article 5- Contract Price

5.0 CMAR agrees at his own cost and expense, to completely construct and install all Work and materials as called for by this Agreement, free and clear of all claims, liens and charges whatsoever, in the manner and under the conditions specified in the Contract Documents, within the time or times stated in the approved GMP.

5.1 Contract Price

5.1.1 The Contract Price shall be as approved in the Guaranteed Maximum Price Proposal attached as Exhibit "B" in an amount of **\$2,779,883.71** with an additional **\$125,000.00** allowed for Owner's Contingency.

5.1.2 The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.

5.1.3 The General Conditions Costs and the Construction Fee are firm fixed lump sums delineated in the GMP.

5.1.4 Taxes are deemed to include all sales, use consumer and other taxes, which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective, or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

5.2 Guaranteed Maximum Price

5.2.1 The Guaranteed Maximum Price is composed of the maximum Cost of the Work; the Construction Fee; General Conditions Costs; taxes; and, CMAR's contingency all of which are not-to-exceed cost reimbursable or lump sum amounts defined in Articles 5.1 and 5.3. CMAR is at risk to cover any additional Project costs. If the Cost of Work amount, set forth in the GMP, is in excess of the actual Cost of Work and/or CMAR's Contingency, said amount by which the Cost of Work set forth in the GMP is in excess of the actual Cost of Work and/or CMAR's Contingency, shall revert to the City.

5.2.2 The GMP is subject to adjustments made in accordance with Article 6 and by GMP amendments to this Agreement.

5.2.3 GMP amendments are cumulative except for CMAR's Contingency. The amount of CMAR's Contingency for each GMP shall be negotiated separately.

5.2.4 If the GMP requires an adjustment due to changes in the scope of the Work the cost of such changes is determined subject to Article 6. The markups that may be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.3 Contingencies

5.3.1 CMAR's Contingency is an amount CMAR may use at its sole discretion for, an increase in the Cost of Work, and may use for increases in General Conditions Costs with written approval of the City. CMAR's Contingency is assumed to be a direct Project cost and all applicable markups shall be applied at the time of GMP submission.

5.3.1.1 When CMAR utilizes CMAR's Contingency funds, CMAR shall make the appropriate changes to the Schedule of Values with the next regular progress payment request. CMAR shall deduct the

amount of CMAR's Contingency funds used from CMAR's Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If CMAR's contingency funds are used for a new line item that was not given with the original Schedule of Values, these shall be so indicated.

- 5.3.2** Owner's Contingency are funds to be used at the sole discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen Site conditions. Owner's Contingency shall be added to the GMP amount provided by CMAR, the sum of which shall be the full Contract Price for construction. At the time that Owner's Contingency is used the appropriate markups shall be applied.

5.4 Open Book.

CMAR shall submit to the City upon request all payrolls, reports, estimates, records and any other data concerning the Work performed or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this Section shall be included in all Agreements between CMAR and its Subcontractors and Consultants. The City may exercise its rights under this Section as often as reasonably necessary in the City's sole judgment to assure the City has a complete and accurate understanding of all Project costs.

Article 6 - Changes to the Contract Price and Time

6.0 Delays to the Work

- 6.0.1** If CMAR is delayed in the performance of the Work that shall cause a change in the date of Substantial Completion due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own, or, those for whom CMAR is responsible, the Contract Times for performance shall be reasonably extended by Change Order. However, the City and the CM@R must agree on the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CM@Rs control and/or whether they are due to no fault of the CM@R, or those for whom CMAR is responsible; if the City and the CM@R do not agree, then an independent third party, selected by both parties, shall make the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CM@Rs control and/or whether they are due to no fault of the CM@R, or those for whom CMAR is responsible.

- 6.0.2** CMAR shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work within three (3) days of the occurrence of the delay. In the case of a continuing delay only one request is necessary.

- 6.0.3** By way of example, events that shall entitle CMAR to an extension of the Contract Time include acts or omissions of City or anyone under City's control (including separate Contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, delays by regulating agencies, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

- 6.0.4** If adverse weather conditions are the basis for a request for additional Contract Time, such requests shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled Substantial Completion. All terms, conditions and definitions necessary for the application of this paragraph shall be as set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

6.0.5 It is understood, however, that permitting CMAR to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the City of any of its legal rights herein.

6.0.6 In addition to CMAR's right to a time extension for those events set forth in this Section, CMAR shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in this Section that are beyond the control of both CMAR and City, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God and shall not be adjusted absent a showing of actual damage.

6.1 Differing Site Conditions

6.1.1 If CMAR encounters a Differing Site Condition, CMAR shall be entitled to an adjustment in the Contract Price and/or Contract Times to the extent CMAR's cost and/or time of performance are actually adversely impacted by the Differing Site Condition.

6.1.2 Upon encountering a Differing Site Condition, CMAR shall provide prompt written notice to City of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. CMAR shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

6.2 Errors, Discrepancies and Omissions

6.2.1 If CMAR observes errors, discrepancies or omissions in the Contract Documents, CMAR shall promptly notify the Design Professional and request clarification.

6.2.2 If CMAR proceeds with the Work affected by such errors, discrepancies or omissions, without receiving such clarifications, CMAR does so at its own risk. Adjustments involving such circumstances made by CMAR prior to clarification by the Design Professional shall be at CMAR's risk.

6.3 The City Requested Change in Work

6.3.1 The City reserves the right to make, at any time during the progress of the Work, such alterations as may be found necessary or in the City's best interest.

6.3.2 Such alterations and changes shall not invalidate this Agreement nor release the surety and CMAR agrees to perform the Work as altered, the same as if it has been a part of the original Contract Documents.

6.3.3 The City shall request a proposal for a change in Work from CMAR, and an adjustment in the Contract Price and/or Contract Times shall be made based on a mutual agreed upon cost and time.

6.4 Legal Requirements. The Contract Price and/or Contract Times shall be adjusted to compensate CMAR for the effects of any changes in the Legal Requirements enacted after the date of their Agreement or the date of the GMP, affecting the performance of the Work

6.5 Change Directives and Change Orders

6.5.1 City and CMAR shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for a Change Directive if any adjustments are appropriate. Upon reaching an

agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.

- 6.5.2** All changes in Work authorized by Change Directives and/or Change Orders shall be performed under the conditions of the Contract Documents.

6.6 Minor Changes in the Work

- 6.6.1** The City has authority to order minor changes in Work that do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Such changes shall be affected by written order and shall be binding on the City and CMAR. CMAR shall carry out such written orders promptly.

- 6.6.2** CMAR may make minor changes in Work, provided, however that CMAR shall promptly inform City, in writing, of any such changes and record such changes, if appropriate, on the Project Record Documents maintained by CMAR.

- 6.6.3** Minor changes in Work shall not involve an adjustment in the Contract Price and/or Contract Times.

6.7 Contract Price Adjustments

- 6.7.1** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

- 6.7.1.1** Unit prices set forth in this Agreement or as subsequently agreed to between the parties;

- 6.7.1.2** A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by City; and

- 6.7.1.3** Costs, fees and any other markups.

- 6.7.2** The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP as shown on Exhibit "B".

- 6.7.3** If an increase or decrease cannot be agreed to as set forth in Sections 6.7.1.1 through 6.7.1.3 above and City issues a Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in their Agreement. CMAR shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.

- 6.7.4** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices shall cause substantial inequity to City or CMAR because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

- 6.7.5** If City and CMAR disagree upon whether CMAR is entitled to be paid for any services required by City, or if there are any other disagreements over the scope of Work or proposed changes to the Work, City and CMAR shall resolve the disagreement pursuant to Article 8 hereof.

- 6.7.5.1** As part of the negotiation process, CMAR shall furnish City with a good faith estimate of the costs to perform the disputed services in accordance with City's interpretations.

6.7.5.2 If the parties are unable to agree and City expects CMAR to perform the services in accordance with City's interpretations, CMAR shall proceed to perform the disputed services, conditioned upon City issuing a written order to CMAR (i) directing CMAR to proceed and (ii) specifying City's interpretation of the services that are to be performed.

6.7.6 Emergencies.

In any emergency affecting the safety of persons and/or property, CMAR shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time resulting from emergency work under this Section shall be determined as provided in this Article.

Article 7- Procedure for Payment

7.0 For and in consideration of the faithful performance of the Work herein embraced as set forth in the Contract Documents, which are a part hereof and in accordance with the directions of the City and to the City's satisfaction, the City agrees to pay CMAR the actual Cost of the Work and any applicable General Conditions Costs including, insurance and bonding, taxes and CMAR's Construction Fee, but no more than the GMP as adjusted by any change orders. Payment for the specific Work under this Agreement shall be made in accordance with payment provisions detailed below.

7.1 GMP Payment Request

7.1.1 At the pre-construction conference prescribed in Section 2.4, CMAR shall submit for City's review and approval a Schedule of Values. The Schedule of Values shall serve as the basis for monthly progress payments made to CMAR throughout the Work.

7.1.2 At least five (5) working days prior to the date established for a Payment Request, CMAR shall submit an updated Project Master Schedule and meet with the City's Representative to review the progress of the Work as it shall be reflected on the Payment Request.

7.1.3 The Payment Request shall constitute CMAR's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and that title to all Work shall pass to City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project.

7.1.4 The Payment Request may request payment for stored equipment and materials if construction progress is in reasonable conformance with the approved schedule.

7.1.4.1 For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and City shall receive the equipment and materials free and clear of all liens and encumbrances.

7.1.4.2 For materials and equipment stored off the Site, the City must approve the storage. The material and equipment must be stored within Coconino County or other Sites as may be approved and be accessible for City's inspection. CMAR must establish City title to such materials and equipment or otherwise protect the City's interest and shall include applicable insurance, bonding, storage and transportation to the Site.

7.1.4.3 All bonds and insurance required for stored materials shall name the City as the loss payee to the extent of its interest in the stored materials.

7.1.5 CMAR shall submit to City on a monthly basis either on the first of the month for payment on the 15th or on the 19th of the month for payment on the 30th or 31st. If the payment date is on

a Saturday, payment shall be on Friday. If the payment date is on a Sunday, payment shall be on Monday.

7.2 Payment of GMP

7.2.1 City shall make payment in accordance with A.R.S. §34-607. Payment shall be made no later than fourteen (14) days after the Payment Request is certified and approved, but in each case less the total of payments previously made, and less amounts properly retained under Section 7.3 below.

7.2.2 City shall pay CMAR all amounts properly due. If City determines that CMAR is not entitled to all or part of a Payment Request, it shall notify CMAR in writing within (7) days after the date Payment Request is received by the City. The notice shall indicate the specific amounts City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures CMAR shall take to rectify City's concerns. CMAR and City shall attempt to resolve City's concerns. If the parties cannot resolve such concerns, CMAR may pursue its rights under the Contract Documents, including those under Article 8 hereof.

7.3 Retention of GMP

7.3.1 City shall retain ten percent (10%) of each Payment Request amount provided. When fifty percent (50%) of the Work has been completed by CMAR, upon request of CMAR, City may reduce the amount retained to five percent (5%) from CMAR's subsequent Payment Requests if CMAR's performance of Work has been satisfactory.

7.3.2 In lieu of retention, CMAR may provide as a substitute, an assignment of time certificates of deposit (CDs) from a bank licensed by the State of Arizona, securities of or guaranteed by the United States of America, securities of counties, municipalities and school districts within the State of Arizona or shares of savings and loan institutions authorized to transact business in Arizona.

7.3.2.1 CDs assigned to the City must be maintained at the City's single servicing bank, in the form of time deposit receipt accounts.

7.3.2.2 Securities deposited in lieu of retention must be deposited into a separate account with a bank within the State of Arizona.

7.3.2.3 CDs and Securities shall be assigned exclusively for the benefit of the City of Flagstaff pursuant to the City's form of Escrow Agreement. Escrow Agreement forms may be obtained from the Purchasing Department by contacting Patrick Brown, Senior Procurement Specialist.

7.4 Substantial Completion.

Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, City shall release to CMAR all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount up to two and one-half (2.5) times the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

7.5 Final Payment

7.5.1 After receipt of a final Payment Request, City shall make final payment within sixty (60) days after receipt by the City, provided that CMAR has completed all of the Work in conformance with the Contract Documents and a Final Completion Letter has been issued by the City.

7.5.2 At the time of submission of its final Payment Request, CMAR shall provide the following information:

- 7.5.2.1 An affidavit affirming that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which shall in any way affect City's interests;
- 7.5.2.2 A general release executed by CMAR waiving, upon receipt of final payment by CMAR, all claims, except those claims previously made in writing to City and remaining unsettled at the time of final payment; and
- 7.5.2.3 Consent of CMAR's surety, if any, to final payment.

7.6 Payments To Subcontractors or Suppliers

- 7.6.1 CMAR shall pay its Subcontractors or suppliers within seven (7) calendar days of receipt of each progress payment from the City. CMAR shall pay for the amount of Work performed or materials supplied by each Subcontractor or supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to CMAR shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. CMAR shall pay Subcontractors or suppliers the reduced retention within fourteen (14) calendar days of the payment of the reduction of the retention to CMAR. No agreement between CMAR and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein.
- 7.6.2 If CMAR fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and CMAR agrees that the City may take such actions:
 - 7.6.2.1 Hold CMAR in default under this Agreement;
 - 7.6.2.2 Withhold future payments including retention until proper payment has been made to Subcontractors or suppliers in accordance with these provisions;
 - 7.6.2.3 Reject all future offers to perform work for the City from CMAR for a period not to exceed one (1) year from Substantial Completion date of this Project; or
 - 7.6.2.4 Terminate this Agreement.
- 7.6.3 If CMAR's payment to a Subcontractor or supplier is in dispute, it shall act in compliance with A.R.S. § 32-1129.02(D) and related statutes as amended, and shall further hold the City harmless from any ensuing damages, claims or costs.
- 7.6.4 Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.
- 7.6.5 CMAR shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.7 Record Keeping and Finance Controls

- 7.7.1 Records of CMAR's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and CMAR shall be kept on a generally recognized accounting basis and shall be available for three (3) years after Final Completion of the Project.
- 7.7.2 The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit CMAR's records to verify the accuracy and appropriateness of all pricing data,

including data used to negotiate Contract Documents and any Change Orders.

- 7.7.3** The City reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of CMAR's records, the audit discloses CMAR has provided false, misleading, or inaccurate cost and pricing data.
- 7.7.4** CMAR shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.
- 7.7.5** The City reserves the right to decrease Contract Price and/or payments made on this Agreement if the above provision is not included in Subconsultant's and Subcontractor's Agreements, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.
- 7.7.6** **RECORDS & REPORTING REQUIREMENTS:** The City and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine CMAR's records related to this Agreement. CMAR shall comply with the City of Flagstaff's records retention policy. This record retention requirement shall remain in effect following expiration of the Agreement or termination of the Agreement by either party.

Article 8- Claims and Disputes

8.0 Requests for Agreement Adjustments and Relief.

- 8.0.1** If either CMAR or City believes that it is entitled to relief against the other for any event arising out of or related to Work, such party shall provide written notice to the other party of the basis for its claim for relief.
- 8.0.2** Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of the Agreement.
- 8.0.3** In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed fourteen (14) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.
- 8.0.4** Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

8.1 Dispute Avoidance and Resolution

- 8.1.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, CMAR and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.
- 8.1.2** CMAR and City shall first attempt to resolve disputes or disagreements at the field level through discussions between CMAR's Representative and City's Representative.

8.1.3 If a dispute or disagreement cannot be resolved through CMAR's Representative and City's Representative, CMAR's Senior Representative and City's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties shall exchange relevant information that shall assist the parties in resolving their dispute or disagreement.

8.1.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement shall be filed in the Coconino County Superior Court and Arizona law shall apply and control. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party in the action shall be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

8.2 Duty to Continue Performance.

Unless provided to the contrary in the Contract Documents, CMAR shall continue to perform the Work and City shall continue to satisfy its payment obligations to CMAR, pending the final resolution of any dispute or disagreement between CMAR and City.

8.3 Representatives of the Parties

8.3.1 The City's Representatives

8.3.1.1 City designates the individual listed below or his designee as its Senior Representative ("City's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 8.1.3:

Erik Solberg, Division Head
211 West Aspen Avenue
Flagstaff, AZ 86001
(928) 213-2105

8.3.1.2 City designates the individual listed below as its City's Representative, which individual has the authority and responsibility set forth in Section 8.1.2:

Adam Miele, Senior Project Manager
211 West Aspen Avenue
Flagstaff, AZ 86001
(928) 213-2108

8.3.2 CMAR's Representatives

8.3.2.1 CMAR designates the individual listed below as its Senior Representative ("CMAR's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 8.1.3:

Harvey Heckethorn, Owner
P.O. Box 551
Flagstaff, Arizona, 86002
(928) 774-4133

8.3.2.2 CMAR designates the individual listed below as its CMAR's Representative, which individual has the authority and responsibility set forth in Section 8.1.2:

Earl Heckethorn, President
P.O. Box 551
Flagstaff, Arizona, 86002
(928) 774-4133

Article 9 – Suspension and Termination

9.0 City's Right to Stop Work

9.0.1 City may, at its discretion and without cause, order CMAR in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and eighty (180) consecutive days.

9.0.2 CMAR may seek an adjustment of the Contract Price and/or Contract Time if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by City.

9.1 Termination for Convenience

9.1.1 CMARThe City may terminate this Agreement at any time for any reason by giving at least thirty (30) days written notice to the CMAR. In such event, City shall pay CMAR only the direct value of its completed Work and materials supplied as of the date of termination. CMAR shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead.

9.1.2 If the City suspends the Work for one hundred eighty-one (181) consecutive days or more, such suspension shall be deemed a termination for convenience.

9.1.3 Upon such notice of termination for convenience, CMAR shall proceed with the following obligations:

9.1.3.1 Stop Work as specified in the notice.

9.1.3.2 Place no further subcontracts or orders.

9.1.3.3 Terminate all subcontracts to the extent they relate to the Work terminated. CMAR shall ensure that all subcontracts contain this same termination for convenience provision set forth in Section 9.1 et seq.

9.1.3.4 At the City's sole discretion and if requested in writing by the City, assign to the City all rights, title and interest of CMAR under the subcontracts subject to termination.

9.1.3.5 Take any action that may be necessary for the protection and preservation of the property related to this Agreement that is in the possession of CMAR and in which the City has or may acquire an interest.

9.1.4 CMAR shall submit complete termination inventory schedules no later than one hundred twenty (120) days from the date of the notice of termination.

9.1.5 The City shall pay CMAR the following:

9.1.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.1.5.2 The reasonable and direct, actual costs and expenses attributable to such termination. Reasonable costs and expenses shall not include, among other things, anticipated profit, anticipated overhead, or costs arising from CMAR's failure to perform as required under this

Agreement.

9.1.5.3 CMAR shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead. If it is determined that CMAR would have sustained a loss on the entire Work had they been completed, CMAR shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

9.1.6 CMAR shall maintain all records and documents for three (3) years after final settlement. These records shall be maintained and subject to auditing as prescribed in Section 7.7.

9.2 The City's Right to Perform and Terminate for Cause

9.2.1 If the City provides CMAR with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and CMAR fails to comply in a time frame specified, the City may have work accomplished by other sources at [CMAR's](#) sole expense.

9.2.2 If CMAR persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants and/or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Subsections 9.2.3 and 9.2.4 below.

9.2.3 Upon the occurrence of an event set forth in Subsection 9.2.2 above, City may provide written notice to CMAR that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of CMAR's receipt of such notice.

9.2.3.1 If CMAR fails to cure, or reasonably commence to cure, such problem, then City may give a second written notice to CMAR of its intent to terminate within an additional seven (7) day period.

9.2.3.2 If CMAR, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then City may declare this Agreement terminated for default by providing written notice to CMAR of such declaration.

9.2.4 Upon declaring this Agreement terminated pursuant to Subsection 9.2.3.2 above, City may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which CMAR hereby transfers, assigns and conveys to City for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.

9.2.5 In the event of such termination, CMAR shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, CMAR shall only be entitled to be paid for Work performed and accepted by the City prior to its default.

9.2.6 If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then CMAR shall be obligated to pay the difference to City. Such costs and expenses shall include not only the cost of completing the Work, but also losses, damages, costs and

expense, including attorneys' fees and expenses, incurred by City in connection with the procurement and defense of claims arising from CMAR's default.

- 9.2.7** If City improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of Section 9.1.

9.3 Maintenance During Winter Shutdown of Work; Snow Removal

- 9.3.1** The Capital Improvement Department of the City of Flagstaff retains the right to declare a Winter Shutdown when, in the opinion of the City, it would be unreasonable to continue Work due to adverse weather conditions. The Winter Shutdown determination is at the sole discretion of the City. If Work has been suspended due to winter weather, the CMAR shall be responsible for maintenance and protection of the improvements and of partially completed portions of the Work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the CMAR is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the repairs and/or maintenance and deduct the cost from monies due or become due to the CMAR.

- 9.3.2** The City shall provide snow removal operations on active traffic lanes only. All other snow removal and maintenance operations shall be the responsibility of the Contractor. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations.

- 9.3.3** Upon termination of the Winter Shutdown by the City, the CMAR shall have the right to complete the Work and the Project.

- 9.3.4** The CMAR shall be solely responsible for any and all costs incurred either as a direct or indirect result of a Winter Shutdown, and shall hold the City harmless from the same.

Article 10 - Insurance and Bonds

10.0 Insurance Requirements

- 10.0.1** CMAR and Subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by CMAR, its agents, representatives, employees or Subcontractors.

- 10.0.2** The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

- 10.0.3** The City in no way warrants that the minimum limits contained herein are sufficient to protect CMAR from liabilities that might arise out of the performance of the work under this Agreement by CMAR, its agents, representatives, employees, or subcontractors. CMAR is free to purchase such additional insurance as may be determined necessary.

- 10.1 Minimum Scope and Limits of Insurance.** CMAR shall provide coverage with limits of liability not less than those stated below:

- 10.1.1** Commercial General Liability – Occurrence Form

- | | |
|---|-------------------------|
| • General Aggregate/for this Project | \$2,000,000/\$1,000,000 |
| • Products – Completed Operations Aggregate | \$1,000,000 |

- Each Occurrence

\$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR"**.

Additional Insured Status. The insurance coverage, except Workers' Compensation, required by this Agreement, shall name the CITY, its agents, representatives, directors, officials, employees, and officers, as additional insured AND be accompanied by the required endorsement. Such evidence of additional insured status shall be subject to the approval of the Risk Management Department of the City of Flagstaff. The absence of acceptable insurance and endorsement shall be deemed a breach of this agreement.

- 10.1.2** Automobile Liability - Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.
Combined Single Limit ("CSL") \$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR, including automobiles owned, leased, hired or borrowed by CMAR"**.

- 10.1.3** Worker's Compensation
The CMAR shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes.

- 10.1.4 Builders' Risk Insurance or Installation Floater** \$_____
- In an amount equal to the initial Contract Amount plus additional coverage equal to Contract Amount for all subsequent change orders.

- 10.1.4.1** The City of Flagstaff, CMAR, Subcontractors, Design Professional and Design Professional's consultant and any others with an insurable interest in the Work shall be **Named Insured** on the policy.

- 10.1.4.2** Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement**.

- 10.1.4.3** Coverage shall be maintained until whichever of the following shall first occur: (i) final payment has been made; or, (ii) until no person or entity, other than the City of Flagstaff, has an insurable interest in the property required to be covered.

- 10.1.4.4** Coverage shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.

- 10.1.4.5** CMAR shall provide coverage from the time any covered property becomes the responsibility of CMAR, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation Site, or awaiting installation, whether on or off Site.

- 10.1.4.6** Coverage shall contain a **waiver of subrogation** against the City of Flagstaff.

- 10.1.4.7** CMAR is responsible for the payment of all policy deductibles.

- 10.1.5** Umbrella/Excess Liability Insurance not less than \$2,000,000 per occurrence combined limit Bodily Injury and Property Damage, that “follows form” and applies in excess of the Commercial General Liability, Automobile Liability as required above.

10.2 Additional Insurance Requirements.

The policies shall include, or be endorsed to include, the following provisions:

- 10.2.1** The City, its officers, officials, agents, employees and volunteers shall be additional insured to the full limits of liability purchased by CMAR even if those limits of liability are in excess of those required by this Agreement.
- 10.2.2** CMAR's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- 10.2.3** Coverage provided by CMAR shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 10.2.4** The policies shall contain a Waiver of Subrogation against the City, its officers, officials, agents, and employees for losses arising from work performed by the CMAR for the City.

10.3 Notice of Cancellation.

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to the City Purchasing Department, attention Patrick Brown, Senior Procurement Specialist, and shall be sent by certified mail, return receipt requested.

10.4 Acceptability of Insurers.

Insurance is to be placed with insurers who are duly licensed companies in the State of Arizona with an “A.M. Best” rating of A-7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect CMAR from potential insurer insolvency.

10.5 Verification Of Coverage

- 10.5.1** CMAR shall furnish the City with Certificates of Insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- 10.5.2** All Certificates of Insurance and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of Work under this Agreement and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.
- 10.5.3** All Certificates of Insurance required by this Agreement shall be sent directly to City's Purchasing Department, attention Patrick Brown, Senior Procurement Specialist. The City project/contract number and project description shall be noted on the Certificate of Insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

- 10.5.4** If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the City's requirements, the CMAR must:
- Submit a current Certificate of Insurance (dated within fifteen (15) days of the payment request submittal) with each payment request form. The payment request shall be rejected if the Certificate of Insurance is not submitted with the payment request.

10.6 Subcontractors.

CMAR's Certificate(s) of Insurance shall include all Subcontractors as additional insureds under its policies. All coverages for Subcontractors shall be subject to the minimum requirements identified above.

10.7 Approval.

Any modification or variation from the insurance requirements in this Agreement shall be made by the City Attorney's Office, whose decision shall be final. Such action shall not require a formal contract amendment, but may be made by administrative action.

10.8 Bonds and Other Performance Security.

10.8.1 Prior to execution of this Agreement, CMAR shall provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the GMP.

10.8.2 Each such bond shall be executed by a surety company, or companies, holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two (2) years prior to the execution of this Agreement.

10.8.3 The bonds shall be made payable and acceptable to the City of Flagstaff.

10.8.4 The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in Arizona, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.

10.8.4.1 If one Power of Attorney is submitted, it shall be for twice the total GMP amount.

10.8.4.2 If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.

10.8.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, CMAR shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.8.6 All bonds submitted for this project shall be provided by a company which has been rated AM Best rating of "A-, 7, or better for the prior four quarters" by the A.M. Best Company.

Article 11 - Indemnification

11.1 CMAR's Liability and Indemnification.

11.1.1 To the fullest extent permitted by law, CMAR shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost

of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent, reckless, or intentional acts, errors, mistakes, omissions, work or services of CMAR, its employees, agents, or any tier of subcontractors in the performance of this Agreement. CMAR's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with the claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of CMAR or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services CMAR may be legally liable.

The amount and type of insurance coverage requirements set forth herein shall in no way be construed as limiting the scope of the indemnity in this paragraph.

Article 12 – General Provisions

12.1 Contract Documents

12.1.1 Contract Documents are as defined in Article 1. This Agreement, Plans, Standard Specifications and Details, Special Provisions, Addenda (if any) dated (NONE) and used as the basis for the Guaranteed Maximum Price Proposal and Guaranteed Maximum Price Proposal, as accepted by the Mayor and Council per Council Minutes 3rd day of March, 2015, Performance Bond, Payment Bond, Certificates of Insurance, Construction Documents and Change Orders (if any) are by this reference made a part of this Agreement to the same extent as if set forth herein in full.

12.1.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

12.1.3 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in the definition of Contract Documents in Article 1.

12.1.3.1 On the drawings, given dimensions shall take precedence over scaled measurements, and large-scale drawings over small-scale drawings.

12.1.3.2 Specifications take precedence over Plans.

12.1.3.3 In the event of any inconsistency, conflict, or ambiguity between the Contract Documents and the Design Phase Agreement, the Contract Documents take precedence over the Design Phase Agreement

12.1.4 The headings used in this Agreement, or any other Contract Documents, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.1.5 The Contract Documents form the entire agreement between City and CMAR and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

12.2 Amendments.

The Contract Documents may not be changed, altered, or amended in any way except in

writing signed by a duly authorized representative of each party.

12.3 Time is of the Essence.

City and CMAR mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

12.4 Mutual Obligations.

City and CMAR commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

12.5 Cooperation and Further Documentation.

CMAR agrees to provide the City such other duly executed documents as shall be reasonably requested by the City to implement the intent of the Contract Documents.

12.6 Assignment.

CMAR shall not, without the written consent of the City assign, transfer or sublet any portion of this Agreement or part of the Work or the obligations required by the Contract Documents. Notwithstanding the City's consent to assignment, CMAR as assignor, and the Assignee shall both remain liable under all rights, obligations, terms, and conditions of this Agreement.

12.7 Successorship.

CMAR and City intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.8 Third Party Beneficiary.

Nothing under the Contract Documents shall be construed to give any rights or benefits in the Contract Documents to anyone other than the City and CMAR, and all duties and responsibilities undertaken pursuant to the Contract Documents shall be for the sole and exclusive benefit of City and CMAR and not for the benefit of any other party.

12.9 Governing Law.

This Agreement and all Contract Documents shall be deemed to be made under, and shall be construed, in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought in the Superior Court, Coconino County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

12.10 Severability.

If any provision of the Contract Documents or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

12.11 Compliance with All Laws.

CMAR will comply with all applicable Federal, State, County and City laws, regulations and policies. CMAR understands and acknowledges the applicability of the Americans with

Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. CMAR agrees to comply with these laws in performing the Contract Documents and to permit the City to verify such compliance.

12.12 Legal Requirements.

CMAR shall perform all Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

12.13 Construction Documents.

It is not CMAR's responsibility to ascertain that the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if CMAR recognizes that portions of the Construction Documents are at variance therewith, CMAR shall promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency.

12.14 Independent Contractor.

CMAR is and shall be an independent contractor. Any provisions in the Contract Documents that may appear to give the City the right to direct CMAR as to the details of accomplishing the Work or to exercise a measure of control over the Work means that CMAR shall follow the wishes of the City as to the results of the Work only. These results shall comply with all applicable laws and ordinances.

12.15 The City's Right of Cancellation.

All parties hereto acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of A.R.S. § 38-511.

12.16 Survival.

All warranties, representations and indemnifications by CMAR shall survive the completion or termination of this Agreement.

12.17 Covenant against Contingent Fees.

CMAR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the City Council, or any employee of City has any interest, financially, or otherwise, in the firm. For breach or violation of this warrant, the City shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.18 No Waiver.

The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.19 Notice.

- 12.19.1** Many notices or demands required to be given, pursuant to the terms of this Agreement, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any

commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below **and** to legal counsel for the party to whom the notice is being given.

to CMAR:

Harvey Heckethorn, Owner
P.O. Box 551
Flagstaff, Arizona, 86002
(928) 774-4133

to City:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Patrick Brown, Senior Procurement Specialist
Phone: (928) 213-2277
Fax: (928) 213-2209

With a copy to:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Adam Miele, Senior Project Manager
Phone: (928) 213-2108
Fax: (928) 213- 2109

Design Professional:

Plateau Engineering, Jim Hall, P. E., President
323 N. San Francisco St., Suite 201
Flagstaff, Arizona 86001
928-556-0311

or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

- 12.19.2** Notices Related to Payment, Securities-in-lieu, Bonds. Any notice, request, instruction or other document to be given under this Agreement by any party to any other party related to payment, securities-in-lieu, bonds or other instrument securing the performance of this Agreement, including but not limited to, bid bonds, performance bonds, payment bonds or letters of credit, shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail or (c) upon the expiration of three (3) business days after the day mailed by certified mail, as follows:

to Contractor:

Harvey Heckethorn, Owner
P.O. Box 551
Flagstaff, Arizona, 86002
(928) 774-4133

to City:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Patrick Brown, Senior Procurement Specialist
Phone: (928) 213-2277
Fax: (928) 213-2209

With copies to:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Adam Miele, City Representative (Project Manager)
Phone: (928) 213-2108
Fax: (928) 213-2109

or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.20 Confidentiality of Plans and Specifications

12.20.1 Any plans or specifications regarding this Project shall be for official use only. [CMAR](#) shall not share them with others except as required to fulfill the obligations of this Agreement with the City.

12.20.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by CMAR shall include the following language: "These plans are for official use only and may not be shared with others except as required to fulfill the obligations of the Street Maintenance Program 2011 Project Agreement with the City of Flagstaff."

12.21 CMAR and Subcontractor Employee Security Inquiries.

The parties acknowledge that security measures required in this Section are necessary in order to preserve and protect the public health, safety and welfare. In addition to the specific measures set forth below, CMAR shall take such other measures, as it deems reasonable and necessary to further preserve and protect the public health, safety and welfare.

12.21.1 Security Inquiries. CMAR acknowledges that all of the employees that it provides pursuant to this Agreement shall be subject to background and security checks and screening ("Security Inquiries"). CMAR shall perform all such security inquiries and shall make the results available to City for all employees considered for performing work (including supervision and oversight) under this Agreement. City may make further security inquiries. Whether or not further security inquiries are made by City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by CMAR for performing work under this Agreement. Employees rejected by City for performing services under this Agreement may still be engaged by CMAR for other work not involving the City. An employee rejected for work under this Agreement shall not be proposed to perform work under other City Agreements or engagements without City's prior

approval.

- 12.21.2** Criteria for Evaluating Security Inquiries. Once formally adopted by City, criteria for excluding an individual from performing work under this Agreement shall be communicated by City to CMAR and used by CMAR as a factor in making its decision. Prior to such adoption, CMAR shall use its best judgment in making its decision using, among other criteria, applicable law, administrative regulations of federal, state and local agencies concerned with work performed under this Agreement, specific local concerns that deal with the specific work and work location(s) of the Project, and standards used by City in evaluating its own personnel.
- 12.21.3** Additional City Rights Regarding Security Inquiries. In addition to the foregoing, City reserves the right to: (1) have an employee/prospective employee of CMAR be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of CMAR 's employees and/or prospective employees; and, (4) object, at any time and for any reason, to an employee of CMAR performing work (including supervision and oversight) under this Agreement.
- 12.21.4** Background and Security-Contracts and Subcontracts. CMAR shall include the security inquiry terms of this Section for employee background and security checks and screening in all contracts and subcontracts for work performed under this Agreement, including supervision and oversight.
- 12.21.5** Materiality of Security Inquiry Provisions. The security inquiry provisions of this Agreement, as set forth above, are material to City 's entry into this Agreement and any breach thereof by CMAR may, at City's sole and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Agreement. Such termination shall subject CMAR to liability for its breach of this Agreement.

12.22 Hazardous Materials

- 12.22.1** Unless included in the Work, if CMAR encounters material on the Site which it reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by applicable law, it shall immediately stop work and report the condition to the City.
- 12.22.2** If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by applicable law, CMAR shall not resume work in the affected area until the material has been abated or rendered harmless. CMAR and the City may agree, in writing, to continue work in non-affected areas on the Site.
- 12.22.3** An extension of Contract Time may be granted in accordance with Article 6.
- 12.22.4** CMAR shall comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.23 Computer Systems.

CMAR shall warrant fault-free performance in the processing of date and date-related data including, but not limited to calculating, comparing, and sequencing by all equipment and software products, individually and in combination, from the commencement of the Work. Fault-free performance shall include the manipulation of data when dates are in the 20th or 21st centuries and shall be transparent to the user. Failure to comply with "Year 2000" requirements shall be considered a breach of this Agreement.

12.24 Traffic Control.

CMAR shall comply with all provisions of the latest version of the Manual on Uniform Traffic

Control Devices and any other traffic control provisions as may be provided in the technical specifications.

THE CITY OF FLAGSTAFF, ARIZONA

Street Maintenance Program 2015, 2016, 2017

Project No. 01-15001, GMP Number Three; Agreement No. 2015-08-2

IN WITNESS WHEREOF, two (2) identical counterparts of this Agreement each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on the date and year first above written.

CMAR agrees that this Agreement, as awarded, is for the stated Work and understands that payment for the total Work shall be made on the basis of the indicated amount(s), per the terms and conditions of this Agreement.

Guaranteed Maximum Price

Two Million Nine Hundred Four Thousand Eight Hundred Eighty Three Dollars and Seventy One Cents

\$2,904,883.71

THE CITY OF FLAGSTAFF, ARIZONA

C and E Paving & Grading, LLC.

By: _____
Jeff Meilbeck, Acting City Manager

By: _____

Title: _____

(Corporate Seal)

ATTEST:

City Clerk

ATTEST: (Signature and Title)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A - PROJECT DESCRIPTION

Following is a brief description of the Project for which the design phase service services specified in this Agreement are to be performed:

The Street Maintenance Program includes street overlay, chip seal, micro seal and crack sealing construction to preserve and maintain existing asphalt street and parking lot pavements. The contract work also includes removal and replacement of curb returns and sidewalks at many locations on the streets overlaid to bring these streets into compliance with the Americans With Disabilities Act (ADA). Traffic signal detection modifications may be required where the work disturbs existing detection equipment. Utility adjustments and pavement marking are also included in the work.

The overlay streets are selected after evaluation of the street condition using pavement management software owned by the City. One half of the City street pavements are evaluated and ranked each year. Each street pavement is assigned an overall condition index (OCI) based on the type and severity of the distress observed. A pavement that has no distress is given an OCI of 100. Each pavement distress such as cracking or roughness reduces the street's OCI. The street pavements are ranked by OCI and the pavements exhibiting the most severe distress are programmed for resurfacing with asphaltic concrete overlays as budget allows.

The goal of the Street Maintenance Program is to use the available funds in the most efficient manner to lengthen the service life of the City street pavements and avoid costly pavement reconstruction. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

EXHIBIT B – APPROVED GMP PROPOSAL

PROJECT #: 01-15001

DATE:

PROJECT NAME: Street Maintenance Program 2015, 2016, 2017

Attached

EXHIBIT C – REVISIONS OF MAG STANDARD SPECIFICATIONS

Attached

EXHIBIT D – SPECIAL PROVISIONS

Attached

GMP SUMMARY

2015



STREET

MAINTENANCE

PROGRAM

PROJECT NO: 01-15001
ASPHALT OVERLAY
PHASE 2
GMP # 3

GMP SUMMARY

PROJECT NAME:	City of Flagstaff Street Maintenance Program 2015
PROJECT NUMBER:	01-15001 Phase 2
LAST UPDATED:	5/15/2015
OWNER(S):	City of Flagstaff
BILLING ADDRESS:	211 West Aspen Avenue
JOB SITE ADDRESS:	various locations - 2015 Asphalt Overlay
OWNER PHONE:	(928) 213-2108



C and E
PAVING & GRADING L.L.C.

GMP SUMMARY			
A	COST OF THE WORK (LABOR, MATERIALS, EQUIPMENT)		\$2,146,175.65
B	CM@RISK'S CONTINGENCY		\$75,000.00
INDIRECT COSTS		RATE	
C	CONSTRUCTION FEE	4.9%	\$133,434.42
D	GENERAL CONDITIONS	9.8%	\$272,428.60
	D1	\$17,457.67	
	D2	\$34,470.56	
E	SALES TAX	0.054983	\$152,845.04
	F. TOTAL GMP		\$2,779,883.71
	G. OWNER'S CONTINGENCY		\$125,000.00
	H. CONTRACT AMOUNT		\$2,904,883.71

CITY OF FLAGSTAFF
GENERAL CONDITIONS ESTIMATE

PROJECT NAME:	City of Flagstaff Street Maintenance Program - 2015		
PROJECT NUMBER:	01-15001 Phase 2		
LAST UPDATED:	5/15/2015		
OWNER(S):	City of Flagstaff		
BILLING ADDRESS:	211 West Aspen Avenue		
JOB SITE ADDRESS:	various locations 2015 Asphalt Overlay		
OWNER PHONE:	(928) 213-2108		
PHASE #	CATEGORY DESCRIPTION	NOTES / SCOPE	BUDGET
General Requirements			
1	VEHICLE / FUEL ALLOWANCE		\$36,254.00
1	PROJECT MANAGER		\$48,860.00
1	SUPERINTENDENT		\$39,690.00
1	OFFICE PERSONEL		\$6,756.82
1	OFFICE SUPPLIES AND EQUIPMENT		\$1,965.00
1	SITE MECHANIC & SERVICE TRUCK		\$22,957.00
1	TEMP SANITARY FACILITIES		\$1,114.00
1	ADDITIONAL PUBLIC NOTICES AND DELIVERY / LIME / CONCRETE PLASTIC		\$2,955.00
	SURVEY		\$6,300.00
1	MOBILIZATION		\$18,900.00
1	WARRANTY RESERVE	1.25% OF PROJECT	\$34,748.55
1	GL INSURANCE	1.24% OF PROJECT	\$34,470.56
1	PERFORMANCE BOND	.0062827% OF PROJECT	\$17,457.67
TOTAL			\$272,428.60



C and E
PAVING & GRADING L.L.C.

COST SCHEDULE OF VALUES

2015 City Street Maintenance Program

Schedule of Values

C and E Paving & Grading L.L.C.

BID NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL
1	ADJUST MANHOLE FRAME & COVER (CITY DTL. 9-03-060)	47.0	EA	\$575.00	\$27,025.00
2	OWNER CONTINGENCY	1.0	EA	\$0.00	\$0.00
3	CRACK SEALING	34.1	T	\$3,350.00	\$114,235.00
4	HOT MIX ASPHALT - (LARGE THERMAL CRACK FILLER)	300	T	\$242.25	\$72,675.00
5	LOWER MANHOLE FRAME & COVER, SEWER CLEANOUT, BLOWOFFS AND SURVEY HANDHOLES	16	EA	\$382.00	\$6,112.00
6	MODIFIED ASPHALTIC CONCRETE	8,957.5	T	\$110.00	\$985,325.00
7	PAVEMENT MILLING	82,630.2	SY	\$2.73	\$225,580.45
8	REMOVE AND REPLACE CONCRETE APRON & VALLEY GUTTER	880.5	SF	\$19.20	\$16,905.60
9	REMOVE AND REPLACE CONCRETE DRIVEWAY (INCLUDING. 6"ABC)	1,376.7	SF	\$19.20	\$26,432.64
10	REMOVE AND REPLACE CURB AND GUTTER (ROLL- IN CLUDING 3" ABC)	772	LF	\$34.10	\$26,325.20
11	REMOVE AND REPLACE CURB AND GUTTER (VERTICAL- INCLUDING. 3"ABC)	475.2	LF	\$34.60	\$16,441.92
12	REMOVE AND REPLACE CURB IN APRON	490	LF	\$35.00	\$17,150.00
13	REMOVE AND REPLACE METER BOX IN ASPHALT (WITH CONCRETE COLLAR)	1	EA	\$500.00	\$500.00
14	REMOVE AND REPLACE PAVEMENT (4" AC [C-3/4"]) PATCH	421.5	SY	\$75.82	\$31,958.13
15	REMOVE AND REPLACE SIDEWALK (INCLUDING. 3"ABC)	7,940.9	SF	\$10.50	\$83,379.45
16	REMOVE AND REPLACE SURVEY MONUMENTS	27	EA	\$160.00	\$4,320.00
17	REMOVE RAMP & INSTALL DETACHABLE WARNING (ADA Ramp MAG 235-3) INCLUDING 3" ABC	22	EA	\$1,906.00	\$41,932.00
18	REMOVE, REPLACE & ADJUST WATER VALVE BOX AND COVER	67	EA	\$731.00	\$48,977.00
19	STREET REBUILDING & PATCHING CONTINGENCY	1,000	SY	\$58.00	\$58,000.00
20	STRIPING AND MARKING	1	LS	24018.14	\$24,018.14
21	TACK COAT (SS-1H)	23.9	T	\$1,140.00	\$27,246.00
22	TRAFFIC CONTROL	1	LS	\$234,769.12	\$234,769.12
23	LOWER WATER VALVE BOX	42	EA	\$366.00	\$15,372.00
24	ADJUST SEWER CLEANOUT, BLOWOFFS AND SURVEY HANDHOLDS (CITY DTL. 9-03-062)	8	EA	\$507.00	\$4,056.00
25	MANHOLE RECONSTRUCT	0	EA	\$0.00	\$0.00
26	REMOVE RAMP & RETROFIT DETECTABLE WARNING (INCLUDING 3" ABC)	26	EA	\$1,440.00	\$37,440.00
27	CMAR CONTINGENCY	1	EA	\$0.00	\$0.00

TOTAL= \$2,146,175.65

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
1	ADJUST MANHOLE FRAME & COVER (CITY DTL. 9-03-	SUBCONTRACTOR	47	EA	\$535.00	\$25,145.00	
		MATERIALS					
		EQUIPMENT					
		LABOR			\$40.00	\$1,880.00	
			47	EA	\$575.00	Total:	\$27,025.00
2	OWNER CONTINGENCY	SUBCONTRACTOR	1	EA	\$0.00	\$0.00	
		MATERIALS					
		EQUIPMENT					
		LABOR				\$0.00	
			1	EA	\$0.00	Total:	\$0.00
3	CRACK SEALING	SUBCONTRACTOR	34.1	T	\$3,300.00	\$112,530.00	
		MATERIALS					
		EQUIPMENT			\$6.00	\$204.60	
		LABOR			\$44.00	\$1,500.40	
			34.1	T	\$3,350.00	Total:	\$114,235.00
4	HOT MIX ASPHALT - (LARGE THERMAL CRACK FILLER)	SUBCONTRACTOR	300	T	\$0.00	\$0.00	
		MATERIALS			\$72.00	\$21,600.00	
		EQUIPMENT			\$100.77	\$30,231.00	
		LABOR			\$69.48	\$20,844.00	
			300	T	\$242.25	Total:	\$72,675.00
5	LOWER MANHOLE FRAME & COVER, SEWER CLEANOUT, BLOWOFFS AND SURVEY HANDHOLES	SUBCONTRACTOR	16	EA	\$350.00	\$5,600.00	
		MATERIALS					
		EQUIPMENT					
		LABOR			\$32.00	\$512.00	
			16	EA	\$382.00	Total:	\$6,112.00

COST BREAKDOWN REGISTER

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
6	MODIFIED ASPHALTIC CONCRETE	SUBCONTRACTOR					
		MATERIALS	8,957.5	T	\$97.50	\$873,356.25	
		EQUIPMENT			\$10.12	\$90,649.90	
		LABOR			\$2.38	\$21,318.85	
			8,957.5	T	\$110.00	Total:	\$985,325.00
7	PAVEMENT MILLING	SUBCONTRACTOR	82,630.2	SY	\$2.63	\$217,317.43	
		MATERIALS			\$0.01	\$826.30	
		EQUIPMENT			\$0.08	\$6,610.42	
		LABOR			\$0.01	\$826.30	
			82,630.2	SY	\$2.73	Total:	\$225,580.45
8	REMOVE AND REPLACE CONCRETE APRON & VALLEY GUTTER	SUBCONTRACTOR	880.5	SF	\$7.55	\$6,647.78	
		MATERIALS			\$0.20	\$176.10	
		EQUIPMENT			\$3.33	\$2,932.07	
		LABOR			\$8.12	\$7,149.66	
			880.5	SF	\$19.20	Total:	\$16,905.60
9	REMOVE AND REPLACE CONCRETE DRIVEWAY (INCLUDING 6"ABC)	SUBCONTRACTOR	1,376.7	SF	\$7.55	\$10,394.09	
		MATERIALS			\$0.20	\$275.34	
		EQUIPMENT			\$3.33	\$4,584.41	
		LABOR			\$8.12	\$11,178.80	
			1,376.7	SF	\$19.20	Total:	\$26,432.64
10	REMOVE AND REPLACE CURB AND GUTTER (ROLL-IN CLUING 3" ABC)	SUBCONTRACTOR	772	LF	\$16.00	\$12,352.00	
		MATERIALS			\$0.35	\$270.20	
		EQUIPMENT			\$8.04	\$6,206.88	
		LABOR			\$9.71	\$7,496.12	
			772	LF	\$34.10	Total:	\$26,325.20

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
11	REMOVE AND REPLACE CURB AND GUTTER (VERTICAL- INCLUDING. 3"ABC)	SUBCONTRACTOR	475.2	LF	\$16.50	\$7,840.80	
		MATERIALS			\$0.36	\$171.07	
		EQUIPMENT			\$7.74	\$3,678.05	
		LABOR			\$10.00	\$4,752.00	
			475.2	LF	\$34.60	Total:	\$16,441.92
12	REMOVE AND REPLACE CURB IN APRON	SUBCONTRACTOR	490	LF	\$17.00	\$8,330.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$8.29	\$4,062.10	
		LABOR			\$9.71	\$4,757.90	
			490	LF	\$35.00	Total:	\$17,150.00
13	REMOVE AND REPLACE METER BOX IN ASPHALT (WITH CONCRETE COLLAR)	SUBCONTRACTOR	1	EA	\$0.00	\$0.00	
		MATERIALS			\$50.00	\$50.00	
		EQUIPMENT			\$200.00	\$200.00	
		LABOR			\$250.00	\$250.00	
			1	EA	\$500.00	Total:	\$500.00
14	REMOVE AND REPLACE PAVEMENT (4" AC [C-3/4"])	SUBCONTRACTOR	421.5	SY	\$0.00	\$0.00	
		MATERIALS			\$24.77	\$10,440.56	
		EQUIPMENT			\$30.67	\$12,927.41	
		LABOR			\$20.38	\$8,590.17	
			421.5	SY	\$75.82	Total:	\$31,958.13
15	REMOVE AND REPLACE SIDEWALK (INCLUDING. 3"ABC)	SUBCONTRACTOR	7,940.9	SF	\$3.95	\$31,366.56	
		MATERIALS			\$0.11	\$873.50	
		EQUIPMENT			\$2.07	\$16,437.66	
		LABOR			\$4.37	\$34,701.73	
			7,940.9	SF	\$10.50	Total:	\$83,379.45

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
16	REMOVE AND REPLACE SURVEY MONUMENTS	SUBCONTRACTOR	27	EA	\$150.00	\$4,050.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$10.00	\$270.00	
			27	EA	\$160.00	Total:	\$4,320.00
17	REMOVE RAMP & INSTALL DETACHABLE WARNING (ADA Ramp MAG 235-3) INCLUDING 3" ABC	SUBCONTRACTOR	22	EA	975.00	\$21,450.00	
		MATERIALS			\$19.33	\$425.26	
		EQUIPMENT			\$336.67	\$7,406.74	
		LABOR			\$575.00	\$12,650.00	
			22	EA	\$1,906.00	Total:	\$41,932.00
18	REMOVE, REPLACE & ADJUST WATER VALVE BOX AND COVER	SUBCONTRACTOR	67	EA	545.00	\$36,515.00	
		MATERIALS			\$169.58	\$11,361.86	
		EQUIPMENT			\$4.08	\$273.36	
		LABOR			\$12.34	\$826.78	
			67	EA	\$731.00	Total:	\$48,977.00
19	STREET REBUILDING & PATCHING CONTINGENCY	SUBCONTRACTOR	1,000	SY	0.00	\$0.00	
		MATERIALS			\$25.96	\$25,960.00	
		EQUIPMENT			\$21.22	\$21,220.00	
		LABOR			\$10.82	\$10,820.00	
			1,000	SY	\$58.00	Total:	\$58,000.00
20	STRIPING AND MARKING	SUBCONTRACTOR	1	LS	24018.14	\$24,018.14	
		HARDWARE			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$0.00	\$0.00	
			1	LS	\$24,018.14	Total:	\$24,018.14

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
21	TACK COAT (SS-1H)	SUBCONTRACTOR	23.9	T	\$640.00	\$15,296.00	
		MATERIALS			\$500.00	\$11,950.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$0.00	\$0.00	
			23.9	T	\$1,140.00	Total	\$27,246.00
22	TRAFFIC CONTROL	SUBCONTRACTOR	1	LS	\$234,769.12	\$234,769.12	
		MATERIALS				\$0.00	
		EQUIPMENT				\$0.00	
		LABOR				\$0.00	
			1	LS	\$234,769.12	Total:	\$234,769.12
23	LOWER WATER VALVE BOX	SUBCONTRACTOR	42	EA	\$350.00	\$14,700.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$16.00	\$672.00	
			42	EA	\$366.00	Total:	\$15,372.00
24	ADJUST SEWER CLEANOUT, BLOWOFFS AND SURVEY HANDHOLDS (CITY DTL. 9-03-062)	SUBCONTRACTOR	8	EA	\$485.00	\$3,880.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$22.00	\$176.00	
			8	EA	\$507.00	Total:	\$4,056.00
25	MANHOLE RECONSTRUCT	SUBCONTRACTOR	-	EA	\$0.00	\$0.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$0.00	\$0.00	
			-	EA	\$0.00	Total:	\$0.00

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
26	REMOVE RAMP & RETROFIT DETECTABLE WARNING (INCLUDING 3" ABC)	SUBCONTRACTOR	26	EA	\$690.00	\$17,940.00	
		MATERIALS			\$14.38	\$373.88	
		EQUIPMENT			\$251.77	\$6,546.02	
		LABOR			\$483.85	\$12,580.10	
			26	EA	\$1,440.00	Total	\$37,440.00
27	CMAR CONTINGENCY	SUBCONTRACTOR	1	EA	\$0.00	\$0.00	
		MATERIALS			\$0.00	\$0.00	
		EQUIPMENT			\$0.00	\$0.00	
		LABOR			\$0.00	\$0.00	
			1	EA	\$0.00	Total:	\$0.00

Total: \$2,146,175.65

LIST OF PLANS AND SPECIFICATIONS

Flagstaff Street Maintenance Program - 2015
Plateau Engineering (928) 556-0311

Project No: 01-15001
Phase 2

<u>Drawing No.</u>	<u>Drawing Title</u>	<u>Release Date</u>
1 of 5	Cover Sheet	
2 of 5	Notes and Details	
3 of 5	Key Maps for Overlay	
4 of 5	Key Maps for Overlay	
5 of 5	Improvement Schedule and Quantities for Overlay	

Maricopa Association of Governments Uniform Standard Specifications and Details
for Public Works Construction General Provisions

City of Flagstaff Amendments to Maricopa Association of Governments
General Provisions

Plateau Engineering Special Provisions

LIST
OF
CLARIFICATIONS
AND
ASSUMPTIONS

Clarifications and Assumptions - GMP #3 Phase 2

City of Flagstaff Street Maintenance Program – 2015 – Asphalt Overlay

1. Item # 18: Remove, Replace & Adjust water valve box and cover
Due to not knowing the exact depth of all water lines, C and E Paving has estimated the cost for new hardware to be installed. C and E Paving has estimated the cost for new hardware to be \$11361.86. If the new hardware cost is more than the estimate, the funds for paying for this hardware will need to come out of the GMP; CM@Risk or Owners Contingency.
2. It is assumed that City of Flagstaff team members will assist the contractor in identifying and marking the stop and start areas for pavement milling and chip seal.
3. If cross-street approaches are to be overlaid, the Engineer shall outline the location and extent of work on cross-streets prior to beginning the work.
4. We realize that no potable water will be utilized on this project. We will need to obtain a permit (no fee) at the Wildcat Hill Waste Water Treatment Plant and will be responsible for complying with all permit requirements.
5. The January 2015 ADOT Index was used to construct the GMP Asphalt prices for this project. Adjustments may have to be made during construction with variances in the Index.
6. It is assumed that during the term of this contract; 2014 MAG and C.O.F. Specifications will govern.
7. The City of Flagstaff will furnish all necessary quality control testing for this project.
8. Asphalt millings generated from this project will be dumped at Old Highway 66 dump site across from Wildcat Waste Plant Road.
9. GMP tax was constructed based on 2014 tax structure. If this tax structure is changed, taxes will be adjusted at time of invoicing.



C and E
PAVING & GRADING
L.L.C.



PROJECT
MASTER
SCHEDULE

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Thomas Bolyen, Water Production Manager
Co-Submitter: Patrick Brown, Senior Procurement Specialist
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Contract: Contract with Southwest Tank and Steel, Inc. in the amount of \$249,178.00 (*Cheshire Water Tank Rehabilitation*).

RECOMMENDED ACTION:

- 1) Approve construction contract with Southwest Tank and Steel, Inc. in the amount of \$249,178 (includes a \$10,000 contingency allowance) and a contract time of 90 calendar days.
- 2) Approve Contract Change Authority to the City Manager in the amount of \$24,917.80 (10% of the contract amount, less allowance).
- 3) Authorize the City Manager to execute the necessary documents

Executive Summary:

In 2012, Utilities Division hired HDR Engineering, Inc. to conduct a condition assessment of the 1.3 million gallon above ground Cheshire Reservoir Water Tank. The assessment revealed the steel tank was deteriorating and in need of restoration. The water tank was built in 1981 the original interior cold tar coating which is designed to protect the steel structural material has failed and is need of removal and replacement. The exterior is also warn from weathering and the paint is peeling. This contract will extend the useful life of this critical piece of Utilities infrastructure.

Financial Impact:

This project has been funded through the Utilities Fund's Capital Improvement Program. Funds are budgeted at \$289,500 in account 202-08-370-3185-0-4435.

Connection to Council Goal and/or Regional Plan:

Council Goals

- 2) Ensure Flagstaff has a long-term water supply for current and future needs;
- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics;

Regional Plan

Chapter VI, WR.2.1, Develop and adopt an integrated water master plan that addresses water resources, water production and its distribution, wastewater collection and its treatment, and reclaimed water treatment and its distribution.

Chapter VI, Policy WR.2.2, maintain and develop facilities to provide reliable, safe, and cost-effective

water, wastewater and reclaimed water services.

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

Option 1. Award the contract to Southwest Tank and Steel, Inc. as the lowest responsive, responsible bidder.

Option 2. Reject the award of this contract and request staff to re-bid the project.

Option 3. Reject the award of this contract and do not provide this maintenance recommended by the condition assessment (this may lead to premature and possible catastrophic failure of the reservoir water tank).

Background/History:

Cheshire Reservoir Water Tank is located in the Cheshire neighborhood in the northwest part of Flagstaff. This reservoir is essential to our current reservoir storage capacity of 22.9 million gallons of potable water. A dry inspection and condition assessment was conducted in February 2012 by HDR Engineering, Inc. They determined long term remaining service life of this water tank is possible with timely and consistent rehabilitation. One key finding was that the coatings are at the end of their useful life and are in need of restoration.

Staff issued a solicitation for construction bids, and was advertised on March 22 and 29, 2015. Five bids were received by the opening date of April 6, 2015, and Southwest Tank and Steel, Inc. was determined to be the lowest responsive responsible bidder. Bid award is determined by base bid \$199,394.00 plus Additive Alternate #1 in the amount of \$49,784.00, for a total recommended award of \$249,178.00 (included in all bids). A tabulation of base bids plus the additive alternate received is summarized below in the Expanded Financial Considerations.

Key Considerations:

If rehabilitation is delayed, Cheshire Reservoir Tank will experience significant steel section losses in critical areas, which will shorten its service life and significantly increase future costs.

Expanded Financial Considerations:

<u>Contractor</u>	<u>Bid</u>	<u>Additive Alt</u> <u>1</u>	<u>Total</u>
Southwest Tank	\$ 199,394.00	\$ 49,784.00	\$ 249,178.00
Blasco, Inc	\$ 172,133.00	\$ 115,532.00	\$ 287,665.00
AZ Coating	\$ 224,475.00	\$ 70,000.00	\$ 294,475.00
MMI Tank & Ind.	\$ 261,071.00	\$ 101,000.00	\$ 362,071.00
DeLeon Painting	\$ 264,405.00	\$ 112,272.00	\$ 376,677.00

Attachments: Construction Contract

CONSTRUCTION CONTRACT

**City of Flagstaff, Arizona
and
Southwest Tank and Steel, Inc.**

This Construction Contract ("Contract") is made and entered into this ____ day of _____ 2015, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona ("Owner") and Southwest Tank and Steel, Inc., an Arizona company ("Contractor") with offices at 4900 N. Hayfield Draw, Suite I, Camp Verde, Arizona. Contractor and the Owner may be referred to each individually as a "Party" and collectively as the "Parties."

RECITALS

- A. Owner desires to obtain tank refurbishing construction services; and
- B. Contractor has available and offers to provide personnel and materials necessary to accomplish the work and complete the Project as described in the Scope of Work within the required time in accordance with the calendar days included in this Contract.

NOW, THEREFORE, the Owner and Contractor agree as follows:

1. Scope of Work. The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for the construction of **Cheshire Tank Rehabilitation Project** (the "Project"). Contractor shall construct the Project for the Owner in a good, workmanlike and substantial manner and to the satisfaction of the Owner through its engineers and under the direction and supervision of the City Engineer, or his properly authorized agents including but not limited to project managers and project engineers. Contractor's work shall be strictly pursuant to and in conformity with the Contract.

- 1.1 A Pre-Construction Conference will be held with the successful Contractor after the Notice of Award is issued. The date and time of the Conference will be agreed upon between the Contractor and the Engineer. The meeting will be held at City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001. The purpose of the meeting is to outline specific construction items and procedures that the City of Flagstaff (the "Owner") feels require special attention on the part of the Contractor. The Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost, or reduce inconvenience to the public. The Contractor shall submit a written proposal at this conference outlining intended plans for pavement replacement, maintaining continuous access to residences and businesses along the construction site, and traffic control.

2. Contract; Ownership of Work. Contractor shall furnish and deliver all of the materials and perform all of the work in accordance with this Contract; Construction Plans; Special Provisions; the City of Flagstaff Engineering Design and Construction Standards and Specifications; the latest version of the Maricopa Association of Governments ("MAG")

Specifications for Public Works Construction and City revisions to the MAG Specifications for Public Works Construction (“Exhibit A”); and any Arizona Department of Transportation (A.D.O.T.) Standards that may be referenced on the Plans or in the specifications, incorporated in this Contract by reference, plans and associated documents. All provisions of the Invitation for Construction Bids, Performance Bond, Payment Bond, Certificates of Insurance, Addenda, Change Orders and Field Orders, if any, are hereby incorporated into this Contract. All materials, work, specifications and plans shall be the property of the Owner.

The following exhibits are incorporated by reference and are expressly made a part of this Contract:

2.1.1 Revisions of MAG Standard Specifications for Public Works Construction Exhibit A
 (“Flagstaff Addendum to MAG”)

2.1.2 Special Provisions Exhibit B

3. Payments. In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed **\$249,178.00** to the Contractor for work and materials provided in accordance with the bid schedule, which amount includes all federal, state, and local taxes, as applicable. This amount shall be payable through monthly progress payments, subject to the following conditions:

- 3.1 Contractor shall promptly submit to the Owner all proper invoices necessary for the determination of the prices of labor and materials;
- 3.2 Progress payments shall be made in the amount of ninety percent (90%) of the value of labor and materials incorporated in the work, based on the sum of the Contract prices of labor and material, and of materials stored at the worksite, on the basis of substantiating paid invoices, as estimated by the Owner, less the aggregate of all previous payments, until the work performed under this Contract is fifty percent (50%) complete. When and after such work is fifty (50%) complete, the ten percent (10%) of value previously retained may be reduced to five percent (5%) of value completed if Contractor is making satisfactory progress as determined by the Owner, and providing that there is no specific cause or claim requiring a greater amount to be retained. If at any time the Owner determines that satisfactory progress is not being made, the ten percent (10%) retention shall be reinstated for all subsequent progress payments made under this Contract;
- 3.3 The City Engineer shall have the right to finally determine the amount due to Contractor;
- 3.4 Monthly progress payments shall be made by the Owner, on or before fourteen (14) calendar days after the receipt by the Owner of an approved estimate of the work completed;
- 3.5 Contractor agrees that title to materials incorporated in the work, and stored at the site, shall vest with the Owner upon receipt of the corresponding progress payment;

3.6 The remainder of the Contract price, after deducting all such monthly payments and any retention, shall be paid within sixty (60) days after final acceptance of completed work by the Owner. The release of retention or alternate surety shall be made following the Owner's receipt and acceptance of: Contractor's Affidavit Regarding Settlement of Claims, Affidavit of Payment, Consent of Surety for Final Payment, and Unconditional Full and Final lien waivers from all subcontractors and suppliers who have filed an Arizona Preliminary 20 Day Lien Notice in accordance with A.R.S. §§ 33-992.01 and 33-992.02.

4. Time of Completion. Contractor agrees to complete all work as described in this Contract within **ninety (90) calendar days** from the date of the Owner's Notice to Proceed free of all liens, claims and demands of any kind for materials, equipment, supplies, services, labor, taxes and damages to property or persons, in the manner and under the conditions specified within the time or times specified in this Contract.

5. Performance of Work. All work covered by this Contract shall be done in accordance with the latest and best accepted practices of the trades involved. The Contractor shall use only skilled craftsmen experienced in their respective trades to prepare the materials and to perform the work.

6. Acceptance of Work; Non Waiver. No failure of the Owner during the progress of the work to discover or reject materials or work not in accordance with this Contract shall be deemed an acceptance of, or a waiver of, defects in work or materials. No payment shall be construed to be an acceptance of work or materials which are not strictly in accordance with the Contract.

7. Delay of Work. Any delay in the performance of this Contract due to strikes, lockouts, fires, or other unavoidable casualties beyond the control of the Contractor and not caused by any wrongful act or negligence of the Contractor shall entitle the Contractor to an extension of time equal to the delay so caused. The Contractor shall notify the Owner in writing specifying such cause within twenty-four (24) hours after its occurrence. In the event such delay is caused by strikes, lockouts, or inability to obtain workmen for any other cause, the Owner shall have the right but shall not be obligated to complete the work on the same basis as is provided for in Section 13 below (Contract Violations).

8. Failure to Complete Project in Timely Manner. If Contractor fails or refuses to execute this Contract within the time specified in Section 4 above, or such additional time as may be allowed, the proceeds of Contractor's performance guaranty shall become subject to deposit into the Treasury of the municipality as monies available to compensate the Owner for damages as provided by A.R.S. § 34-201 for the delay in the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to perform this Contract as required. If Contractor has submitted a certified check or cashier's check as a performance guaranty, the check shall be returned after the completion of this Contract.

9. Labor Demonstration. It is understood that the work covered by this Contract is for the Owner's business purposes and that any unfavorable publicity or demonstrations in connection with the work will have a negative effect upon the Owner. If Contractor's actions in performance of the

Contract result in any public demonstration on behalf of the laborers or organized labor in the vicinity of the Owner's premises, whether such demonstration is in the form of picketing, posting of placards or signs, violence, threats of violence or in any other form, which in the Owner's judgment, might convey to the public the impression that the Owner or the Contractor or any subcontractor is unfair to laborers or to organized labor, the Owner shall have the right to terminate this Contract immediately, unless the Contractor shall have caused such demonstration to be discontinued within two (2) days after request of the Owner to do so. In the event any such demonstration is attended by violence, the Owner may fix lesser time within which a discontinuance shall be accomplished. In the event of Contract termination, the Contractor agrees to remove from the Premises within twenty-four (24) hours of termination, all machinery, tools, and equipment belonging to it or to its subcontractors. All obligations or liabilities of the Owner to the Contractor shall be discharged by such termination, except the obligation to pay to the Contractor a portion of the Contract price representing the value based upon the Contract prices of labor and materials incorporated in the work as established by the Owner, less the aggregate of all previous payments, but subject to all of the conditions pertaining to payments generally.

10. Material Storage. During the progress of the work, the Contractor shall arrange for office facilities and for the orderly storage of materials and equipment. Contractor shall erect any temporary structures required for the work at his or her own expense. The Contractor shall at all times keep the premises reasonably free from debris and in a condition which will not increase fire hazards. Upon completion of the work, the Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials and supplies belonging to the Contractor. Contractor shall leave the Premises in good order, clean, and ready to use by the Owner. The establishment of any temporary construction yard, material storage area or staging area to be located within City of Flagstaff limits and outside the public right-of-way or Project limits generally requires a Temporary Use Permit. (See Exhibit A, Section 107.2.1.)

11. Maintenance During Winter Suspension of Work. A "Winter Shutdown" is the period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the Contractor) on the Project and Contractor shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project. City retains the right to declare a Winter Shutdown. If work has been suspended due to winter weather, the Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

The City shall provide snow removal operations on active traffic lanes only during the Winter Shutdown. All other snow removal and maintenance operations shall be the responsibility of the Contractor during the Winter Shutdown. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations during the Winter Shutdown.

12. Assignment. Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner. No right or interest in this Agreement shall be assigned, in whole or in part, by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City. The City shall not unreasonably withhold consent to such assignment. Contractor agrees that any assignment agreement between Contractor and the Assignee shall include and subject to the assignee to all obligations, terms and conditions of this Agreement and that Contractor shall also remain liable under all obligations, terms and conditions of this Agreement.

13. Notices. Many notices or demands required to be given, pursuant to the terms of this Contract, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below *and* to legal counsel for the party to whom the notice is being given.

If to Owner:

Patrick Brown, C.P.M.
Senior Procurement Specialist
211 West Aspen Avenue
Flagstaff, AZ 86001

If to Contractor:

Brandon Bentley
Project Manager
4900 N. Hayfield Draw, Suite I
Camp Verde, AZ 86322

14. Contract Violations. In the event of any of the provisions of this Contract are violated by the Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate such Contract (the "Notice to Terminate"). The Contract shall terminate within five (5) days of the date Contractor receives the Notice to Terminate, unless the violation ceases and Contractor makes arrangements for correction satisfactory to the Owner. In the event of any such termination, the Owner shall immediately serve notice of the termination upon the Surety by registered mail, return receipt requested. The Surety shall have the right to take over and perform the Contract. If the Surety does not commence performance within ten (10) days from the date of receipt of the Owner's notice of termination, the Owner may complete the work at the expense of the Contractor, and the Contractor and his or her Surety shall be liable to the Owner for any excess cost incurred by the Owner to complete the work. If the Owner completes the work, the Owner may take possession of and utilize such materials, appliances and plants as may be on the worksite site and necessary for completion of the work.

15. Termination for Convenience. The Owner may terminate this contract at any time for any reason by giving at least **thirty (30) days** written notice to the Contractor. If termination occurs under this Section 15, the Contractor shall be paid fair market value for work completed by Contractor as of the date of termination. The parties agree that fair market value shall be determined based on the Contractor's original bid price, less any work not yet completed by the Contractor as of the date the written notice of termination is given to the Contractor.

16. Contractor's Liability and Indemnification. To the fullest extent permitted by law, Provider shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against liabilities, damages, losses and costs, including reasonable attorney fees, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the contractor, subcontractor or design professional or other persons employed or used by the contractor, subcontractor or design professional in the performance of the contract. The amount and type of insurance coverage requirements set forth in the Contract (Section 103.6 of Exhibit A) will in no way be construed as limiting the scope of the indemnity in this paragraph.

17. Non Appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Owner to meet the Owner's obligations under this Contract, the Owner will notify Contractor in writing of such occurrence, and this Contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted. No payments shall be made or due to the other party under this Contract beyond these amounts appropriated and budgeted by the Owner to fund the Owner's obligations under this Contract.

18. Amendment of Contract. This Agreement may not be modified or altered except in writing and signed by duly authorized representatives of the parties.

19. Subcontracts. Contractor shall not enter into any subcontract, or issue any purchase order for the completed work, or any substantial part of the work, unless in each instance, prior written approval shall have been given by the Owner. Contractor shall be fully responsible to the Owner for acts and omissions of Contractor's subcontractors and all persons either directly or indirectly employed by them.

20. Cancellation for Conflict of Interest. This Contract is subject to the cancellation provisions of A.R.S. § 38-511.

21. Compliance with All Laws. Contractor shall comply with all applicable laws, statutes, ordinances, regulations and governmental requirements in the performance of this Contract.

22. Employment of Aliens. Contractor shall comply with A.R.S. § 34-301, which provides that a person who is not a citizen or ward of the United States shall not be employed upon or in connection with any state, county or municipal public works project.

23. Compliance with Federal Immigration Laws and Regulations. Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. 23-214.A. Contractor acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

24. Contractor's Warranty. Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A, Verification of Employment Eligibility. Contractor shall not employ aliens in accordance with A.R.S. § 34-301, Employment of Aliens on Public Works Prohibited. Contractor acknowledges that pursuant to A.R.S. § 41-4401, Government Procurement; E-Verify Requirement; Definitions, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this Contract, and that the Owner retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

25. Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona. The Contractor hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

26. Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

27. Time is of the Essence. Contractor acknowledges that the completion of the Contract by the dates specified final completion is critical to the Owner, time being of the essence of this Contract.

28. No Third Party Beneficiaries. The parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

29. Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Contract.

30. Severability. If any part of this Contract is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Contract shall remain in full force and effect unless the stricken provision leaves the remaining Contract unenforceable.

IN WITNESS WHEREOF, the Owner and Contractor, by their duly authorized representatives, have executed this Contract as of the date written above.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

Owner, City of Flagstaff

Southwest Tank and Steel, Inc.

Jeff Meilbeck, Interim City Manager

Signature

Attest:

Printed Name

City Clerk

Title

Approved as to form:

City Attorney

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Mike Gallegos, Collections Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Cooperative Contract: Purchase of one (1) 906H2 Compact Wheel Loader on a National IPA cooperative purchase agreement with the City of Tucson-Bid#12077 (*Approve purchase of 906H2 Compact Wheel Loader from Empire Machinery in the amount of \$86,106.25*).

RECOMMENDED ACTION:

Approve the purchase of one (1) 906H2 Compact Wheel Loader from Empire Machinery through a National IPA cooperative purchase agreement with the City of Tucson, AZ for the amount of \$86,106.25 (tax and freight included).

Executive Summary:

The Solid Waste Residential Bulk Collection Program uses a loader daily to collect bulky waste from residents and load the waste and green waste into a rear load truck. The use of this loader has proven to decrease lost time due to injuries to our bulky crew and increase productivity in the delivery of services. The equipment warranty and services are supported locally in Flagstaff by Empire Machinery.

Financial Impact:

The Solid Waste Section has \$100,000 budgeted in its Fleet Capital line item for the addition of this Loader in FY 16. Staff is requesting the use of contingency funds in FY 2015 for this purchase.

Connection to Council Goal and/or Regional Plan:

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

None previously

Options and Alternatives:

Option 1) Accept the City of Tucson's- Bid #12077 cooperative purchase agreement with Empire Machinery with a 10 day delivery time.

Option 2) Accept the Quote from RDO Equipment on a National Powers Alliance cooperative Contract #060311-JDC with a delivery time of 8-10 weeks.

Option 3) Continue to use the existing JCB loader.

Background/History:

The Solid Waste Residential Bulk Collection Program uses a loader daily to collect bulky waste from residents and load the waste and green waste into a rear load truck. The addition of this loader to our operations has helped the program in meeting the ongoing need to provide effective tools for our staff to perform their jobs safely and without lost time injuries. The bulky crew has not had any lost time injuries since 2009 when we started using a loader in our operations and increased productivity by 43% in the delivery of services. The increase in volume is due to the continued growing demand from residents for bulk service. Since 2009, our annual bulk waste tonnage has increased from 2740 tons to 3919 tons.

Key Considerations:

The existing JCB Articulated loader was purchased for \$58,777 in 2009 from Arizona Production Machinery & Supply of Phoenix, AZ. We have incurred \$79,664 in maintenance and repairs to date which is 134% of the purchase price. In June 2014, the JCB Articulated loader broke down and was not put back into service until February of 2015. In order to continue to keep up with the volume of bulky waste the Solid Waste Section rented a loader with a total cost of \$32,577. The escalated and unexpected maintenance costs prompted the Solid Waste Section to propose the purchase of an additional loader in FY 16 which was approved by the Fleet Committee. Because Arizona Production Machinery & Supply went out of business shortly after this purchase which left the city without a JCB vendor to provide support services, staff anticipates continued high maintenance costs and future rentals when the JCB loader breaks down.

Expanded Financial Considerations:

The Solid Waste Section is faced with the need to purchase a new front line loader and place the JCB loader in a back up role rather than renting a unit when a back up is needed. We budgeted \$100,000 for this purchase in FY 2016. Because the JCB loader has become unreliable as a front line unit mainly due to the lack of a reliable local company that can provide the service and support that we need; and with annual volumes increasing, we presented to the fleet committee our concerns about the JCB's ability to handle the work load and asked for approval to make this purchase this fiscal year using Solid Waste contingency funds in FY 2015. The Solid Waste fund has a total of \$612,000 budgeted in contingency for FY2015 and there are no other expected draws from these funds. The budgeted funds in FY 2016 will not be spent thus restoring the fund balance. Staff is requesting that we make this purchase in June; because the existing JCB loader cannot sustain the current work load which could add unnesecarry rental and maintenance expenses. Solid waste staff will revisit the equipment needs in 2016. We have a quote from Empire Machinery for \$86,106.25 with a (5) year power train and hydraulic coverage warranty and a (10) day delivery time, and from RDO of Flagstaff for \$82,679.12 with a (5) year power train warranty and a (8-10) week delivery time. Because of the proven history of local support, the added value provided by the additional hydraulic warranty and the (10) day delivery time, staff has recommended purchasing the 906H2 Compact Loader from Empire Machinery of Flagstaff.

Community Benefits and Considerations:

Community benefits include continued consistent quality customer service at the lowest possible user fees.

Expanded Options and Alternatives:

Option 1. Accept the City of Tucson's-Bid #12077 cooperative purchase agreement with Empire Machinery with a 10 day delivery time.

Option 2. Accept the Quote from RDO Equipment on a National Powers Alliance cooperative Contract #060311-JDC with a delivery time of 8-10 weeks.

Option 3. Continue to use the existing JCB loader.

RDO Contract



City of Tucson #12077 Bid

Attention To: City of Flagstaff

Dealer Account Manager: Todd Owen

Delivery between 10-14 days

906 Wheel Loaders

5/11/2015

City Of Tucson #12077 Bid Pricing

Final Price

<u>Machine</u>	
CAT Machine List Price	\$101,156.00
Member Discount (%)	25.00%
Member Discount (\$)	\$25,289.00
Freight	\$4,862.00
Machine Price	\$80,729.00
<u>Work Tools</u>	
CAT Work Tool List Price	\$4,835.00
Member Discount (%)	0.00%
Member Discount (\$)	\$0.00
Work Tools Price	\$4,835.00
Total Bid Price	\$85,564

<u>Trade</u>	
Year	None
Make	None
Model	None
Serial Number	None
Hours	0
Trade Allowance	\$0.00
Lien Amount	\$0.00
Allowance Valid Until	6/10/2015

<u>Work Tools</u>	
None	\$4,835.00
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00

<u>Additional Cost To Sale</u>	
Pre-Delivery (Fuel, Cleaning and Inspection)	\$572.53
Factory To Dealer Freight	\$0.00
Delivery To Agency Yard	\$0.00
Field Service Travel Coverage For Warrantable Repairs:12 Months	\$750.00
Other	\$0.00
Other	\$0.00
Other	\$0.00
Other	\$0.00

<u>Agency Added Costs</u>	
Extended Warranty For 5 Years Or 5000 Hours Powertrain + Hydraulics Coverage	\$4,830.00
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00

<u>Price</u>	
Subtotal Price	\$79,251.03
Trade Allowance Less Lien Amount	\$0.00
Tax Rate	8.650%
Total Invoice Price	<u>\$86,106.25</u>

<u>Savings Summary (Including Agency Added Costs)</u>	
Contract #12077 Bid Price	\$90,394.00
City of Flagstaff Price	\$79,251.03
Net Savings From Bid	<u>\$11,142.97</u>

<u>Options To Consider (Not Included In Price)</u>	
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00
None	\$0.00

**JOHN DEERE**

Investment Proposal (Quote)

RDO Equipment Co.
 5500 East Penstock Avenue
 Flagstaff AZ, 86004
 Phone: (928) 526-0639 - Fax: (928) 526-2498

Proposal for:
 CITY OF FLAGSTAFF
 211 W. ASPEN
 FLAGSTAFF, AZ, 86001
 COCONINO
 (928) 213-2221

Investment Proposal Date: 4/28/2015
Pricing Valid Until: 5/28/2015
Deal Number: 770460
Customer Account#: 5281006
Sales Professional: Buzz Ivicsek
Phone: (928) 526-0639
Fax: (928) 526-2498
Email: Blvicek@rdoequipment.com

Comments

PRICE IS BASED ON NATIONAL JOINT POWERS ALLIANCE 23% DISCOUNT. COOPERATIVE CONTRACT #060311-JDC.

DELIVERY FOR AN ORDERED MACHINE WOULD BE 8-10 WEEKS.

Equipment Information

Quantity	Serial Number	Hours (approx.)	Status / Year / Make / Model Additional Items	Cash Price
1	TBD	0	New 2015 JOHN DEERE 204K 4WD LOADER	\$87,455.00
			Prep / Reconditioning PDI 4WD LOADER	\$875.00
			Customer Discount NJPA 23% DISCOUNT 4WD LOADER	(\$20,114.65)
			Warranty -John Deere Full Extended-60 Months, 5000 Hours,Deductible: 200 4WD LOADER	\$3,455.00
1	TBD	0	New 2015 JOHN DEERE 204K1.1C 1.1CU M LOADER BUCKET	\$5,021.00
			Freight In FREIGHT 1.1CU M LOADER BUCKET	\$350.00
			Customer Discount NJPA 23% DISCOUNT 1.1CU M LOADER BUCKET	(\$1,154.83)
Equipment Subtotal:				\$75,886.52

Purchase Order Totals

Balance:	\$75,886.52
Total Taxable Amount:	\$75,886.52
Tax Rate 3: (AZFL 8.951%)	\$6,792.60
Sales Tax Total:	\$6,792.60
Sub Total:	\$82,679.12
Cash with Order:	\$0.00
Balance Due:	\$82,679.12

Equipment Options

Quantity	Serial Number	Year / Make / Model	Description
1	TBD	2015 JOHN DEERE 204K	06P0T - 204K BASE LOADER 0914 - 204K IT4 ENGINE 4015 - 365/70R18 EM DUNLOP SPT9 8422 - CAB WITH HEATER & A/C 8545 - LESS COUPLER/QUICK TATCH RDY AT412608 - QUICK COUPLER
1	TBD	2015 JOHN DEERE 204K1.1C	0283KV - 84" SCRAP GRAPPLE BKT (GS84)

D770460

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Steve Zimmerman, Parks Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Contract: Construction contract with TSG Constructors, LLC in the amount of \$1,540,765.00 (***Bushmaster Park Improvement Project***)

RECOMMENDED ACTION:

- 1) Approve the construction contract with TSG Constructors, LLC in the amount of \$1,540,765.00 (which includes a \$59,265 contract allowance) and a contract time of 120 calendar days;
- 2) Approve Change Order Authority to the City Manager in the amount of \$122,160.00 (8% of the contract amount);
- 3) Authorize the City Manager to execute the necessary documents

Executive Summary:

Construction of identified improvements will implement the collaborative efforts between various community groups and the City to address public safety and health concerns dating back to 2011. Public outreach forums were held, surveys compiled, studies completed and open communication with the public identified the needs in the park to improve public safety, health, social behavior and recreational activities. Completion of this project will improve these conditions for the entire community.

Award of this contract will authorize the construction of the Bushmaster Park Improvements Project, 3150 N. Alta Vista Drive, in accordance with the approved park improvement plans prepared by The WLB Group, Inc. dated March 12, 2015. The project area is approximately 7 undeveloped acres located on the east side of Bushmaster Park.

The 1996 Parks & Recreation Bond allowed for the issuance of General Obligation Bonds for park improvements identified in the bond. Bed, Board and Booze (BBB) Recreation tax funds will also be used to support the construction.

Financial Impact:

The project has a total FY 15 budget appropriation in the BBB Recreation fund of \$1,666,460. Of this, \$1.1 million is provided through a General Obligation bond issuance and the remaining funds are provided from BBB Recreation. The General Obligation bond will be repaid through secondary property taxes as authorized by the voters in 1996.

Connection to Council Goal and/or Regional Plan:**COUNCIL GOALS:**

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographic

REGIONAL PLAN:**Recreation**

- Goal Rec.1. Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Has There Been Previous Council Decision on This:

Yes.

01-21-2014. Council approval of Ordinance 2014-03, Allowing for the sale of \$1.1 M in General Obligation bonds to support this project.

01-28-2014 Council Work Session for presentation of Bushmaster Concept Design Report.

06-14-2014. Council adoption of the FY2015 Budget which included this project.

Options and Alternatives:

- 1) Approve the award as recommended. Approval will allow the work to move forward in calendar year 2015 or;
- 2) Reject approval of the award. This would delay the project. If rejection occurs, possible options include:
 - Re-advertise the project and open new bids
 - Suspend or cancel the project

Background/History:

These planned improvements are the direct result of a collaborative effort between various community groups and the City to address public safety and health concerns dating back to 2011. In 2012, an internal committee comprised of City staff from various departments was assembled by the City Manager to identify the stakeholders who would have a vested interest in the park and the underlying issues. With the coordinated effort and input from these stakeholders the Bushmaster Park Improvement Project was created.

The park improvements consists of constructing new parking areas, a new playground with ADA accessibility, a new amphitheater area with a large group ramada, a concrete roller rink, a new adult fitness area, a new restroom building, grading of all necessary retention and detention basins for the project, site lighting, and new landscaping. Access on the east side will be added with the construction of a new bridge over the Fanning Wash from N. Thomas Dr.

Staff solicited for construction bids on April 19 and April 26, 2015. Six bids were received by the opening date of April 30, 2015, and TSG Constructors were determined to be the lowest responsive responsible bidder. Staff determined to utilize a deductive alternative in the amount of \$45,500 in order to include a change order amount of \$59,265.00. A bid tabulation with the deductive alternate and change order amount is summarized below in the Expanded Financial Considerations.

Key Considerations:

This project will help address the concerns identified by the Bushmaster Community Block Watch Group, community groups and two surveys (Crime Prevention Through Environmental Design Survey, A Beautiful Life – Hermosa Vida – Nizhoni Iina – Summer 2010).

- Community Concerns
 - Safety
 - Accessibility
 - Community Health
 - New Facilities
 - Dog Park
 - Stormwater

Expanded Financial Considerations:

Below is a summary of the bids received. The \$1,675,441.00 engineer's estimate includes \$1,600,441.00 for improvements plus 4.7% (\$75,000) for the contract allowance.

Engineer's Estimate:

\$1,675,441.00

Contractor	Bid	Deductive Alt	Contract Allowance	Total
TSG	\$	\$	\$	\$
Constructors	1,527,000.00	(45,500.00)	59,265.00	1,540,765.00
Woodruff	\$	\$	\$	\$
	1,599,099.50	(45,500.00)	59,265.00	1,612,864.50
Eagle Mtn	\$	\$	\$	\$
	1,615,731.60	(45,500.00)	59,265.00	1,629,496.60
Tri-Com Corp	\$	\$	\$	\$
	1,638,966.85	(45,500.00)	59,265.00	1,652,731.85
Sky	\$	\$	\$	\$
Construction	2,190,242.06	(45,500.00)	59,265.00	2,204,007.06
Capital Imp.	\$	\$	\$	\$
	2,468,000.00	(45,500.00)	59,265.00	2,481,765.00

Community Benefits and Considerations:

The community benefits from this project will include:

- Improved bridged access
- ADA accessible playground
- New restroom facilities
- New parking lots
- New ramada
- Roller rink
- Outdoor exercise area

Community Involvement:

Inform, Involve:

The community has been informed and involved throughout this process through a series of public outreach meetings, public service announcements (PSA's) and social media.

- Community Outreach
 - Public Outreach – March 27th, April 10th, May 15th, 2013
 - PSA's through newspaper & radio, City website, Recreation Services and SEMS Facebook and Bushmaster Community Block Watch website
 - Concept plan posted on City website for comment period
 - Final draft plan posted on city website and Bushmaster Community Block Watch website

Collaborate:

Collaboration has involved many stakeholders from the community and city staff:

- Community Partners
 - Dr. Charles Hammersley, Professor, NAU, Parks & Recreation Management Program
 - Lisa Jane Hardy, Ph.D. Research Assistant Professor, Department of Anthropology Fellow, Interdisciplinary Health Policy Institute, Northern Arizona University
 - Bushmaster Community Block Watch Group
 - North Country Healthcare
 - Hermosa Vida – Change Action Network (C.A.N.)
 - Coconino County Health District
 - Parks & Recreation Commission

Attachments: Construction Constrict

CONSTRUCTION CONTRACT

**City of Flagstaff, Arizona
and
TSG Constructors, LLC**

This Construction Contract ("Contract") is made and entered into this ____ day of _____ 2015, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona ("Owner") and TSG Constructors, LLC, an Arizona limited liability company ("Contractor") with offices at 37905 N. 17th Lane, Phoenix, Arizona. Contractor and the Owner may be referred to each individually as a "Party" and collectively as the "Parties."

RECITALS

- A. Owner desires to obtain Construction Services; and
- B. Contractor has available and offers to provide personnel and materials necessary to accomplish the work and complete the Project as described in the Scope of Work within the required time in accordance with the calendar days included in this Contract.

NOW, THEREFORE, the Owner and Contractor agree as follows:

1. Scope of Work. The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for the construction of **Bushmaster Park Improvements Project** (the "Project"). Contractor shall construct the Project for the Owner in a good, workmanlike and substantial manner and to the satisfaction of the Owner through its engineers and under the direction and supervision of the City Engineer, or his properly authorized agents including but not limited to project managers and project engineers. Contractor's work shall be strictly pursuant to and in conformity with the Contract.

- 1.1 A Pre-Construction Conference will be held with the successful Contractor after the Notice of Award is issued. The date and time of the Conference will be agreed upon between the Contractor and the Engineer. The meeting will be held at City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001. The purpose of the meeting is to outline specific construction items and procedures that the City of Flagstaff (the "Owner") feels require special attention on the part of the Contractor. The Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost, or reduce inconvenience to the public. The Contractor shall submit a written proposal at this conference outlining intended plans for pavement replacement, maintaining continuous access to residences and businesses along the construction site, and traffic control.

2. Contract; Ownership of Work. Contractor shall furnish and deliver all of the materials and perform all of the work in accordance with this Contract; Construction Plans; Special Provisions; the City of Flagstaff Engineering Design and Construction Standards and Specifications; the latest version of the Maricopa Association of Governments ("MAG")

Specifications for Public Works Construction and City revisions to the MAG Specifications for Public Works Construction (“Exhibit A”); and any Arizona Department of Transportation (A.D.O.T.) Standards that may be referenced on the Plans or in the specifications, incorporated in this Contract by reference, plans and associated documents. All provisions of the Invitation for Construction Bids, Performance Bond, Payment Bond, Certificates of Insurance, Addenda, Change Orders and Field Orders, if any, are hereby incorporated into this Contract. All materials, work, specifications and plans shall be the property of the Owner.

The following exhibits are incorporated by reference and are expressly made a part of this Contract:

2.1.1 Revisions of MAG Standard Specifications for Public Works Construction Exhibit A
 (“Flagstaff Addendum to MAG”)

2.1.2 Special Provisions Exhibit B

3. Payments. In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed **\$1,540,765.00** to the Contractor for work and materials provided in accordance with the bid schedule, which amount includes all federal, state, and local taxes, as applicable. This amount shall be payable through monthly progress payments, subject to the following conditions:

- 3.1 Contractor shall promptly submit to the Owner all proper invoices necessary for the determination of the prices of labor and materials;
- 3.2 Progress payments shall be made in the amount of ninety percent (90%) of the value of labor and materials incorporated in the work, based on the sum of the Contract prices of labor and material, and of materials stored at the worksite, on the basis of substantiating paid invoices, as estimated by the Owner, less the aggregate of all previous payments, until the work performed under this Contract is fifty percent (50%) complete. When and after such work is fifty (50%) complete, the ten percent (10%) of value previously retained may be reduced to five percent (5%) of value completed if Contractor is making satisfactory progress as determined by the Owner, and providing that there is no specific cause or claim requiring a greater amount to be retained. If at any time the Owner determines that satisfactory progress is not being made, the ten percent (10%) retention shall be reinstated for all subsequent progress payments made under this Contract;
- 3.3 The City Engineer shall have the right to finally determine the amount due to Contractor;
- 3.4 Monthly progress payments shall be made by the Owner, on or before fourteen (14) calendar days after the receipt by the Owner of an approved estimate of the work completed;
- 3.5 Contractor agrees that title to materials incorporated in the work, and stored at the site, shall vest with the Owner upon receipt of the corresponding progress payment;

3.6 The remainder of the Contract price, after deducting all such monthly payments and any retention, shall be paid within sixty (60) days after final acceptance of completed work by the Owner. The release of retention or alternate surety shall be made following the Owner's receipt and acceptance of: Contractor's Affidavit Regarding Settlement of Claims, Affidavit of Payment, Consent of Surety for Final Payment, and Unconditional Full and Final lien waivers from all subcontractors and suppliers who have filed an Arizona Preliminary 20 Day Lien Notice in accordance with A.R.S. §§ 33-992.01 and 33-992.02.

4. Time of Completion. Contractor agrees to complete all work as described in this Contract within **One Hundred Twenty (120) calendar days** from the date of the Owner's Notice to Proceed free of all liens, claims and demands of any kind for materials, equipment, supplies, services, labor, taxes and damages to property or persons, in the manner and under the conditions specified within the time or times specified in this Contract.

5. Performance of Work. All work covered by this Contract shall be done in accordance with the latest and best accepted practices of the trades involved. The Contractor shall use only skilled craftsmen experienced in their respective trades to prepare the materials and to perform the work.

6. Acceptance of Work; Non Waiver. No failure of the Owner during the progress of the work to discover or reject materials or work not in accordance with this Contract shall be deemed an acceptance of, or a waiver of, defects in work or materials. No payment shall be construed to be an acceptance of work or materials which are not strictly in accordance with the Contract.

7. Delay of Work. Any delay in the performance of this Contract due to strikes, lockouts, fires, or other unavoidable casualties beyond the control of the Contractor and not caused by any wrongful act or negligence of the Contractor shall entitle the Contractor to an extension of time equal to the delay so caused. The Contractor shall notify the Owner in writing specifying such cause within twenty-four (24) hours after its occurrence. In the event such delay is caused by strikes, lockouts, or inability to obtain workmen for any other cause, the Owner shall have the right but shall not be obligated to complete the work on the same basis as is provided for in Section 13 below (Contract Violations).

8. Failure to Complete Project in Timely Manner. If Contractor fails or refuses to execute this Contract within the time specified in Section 4 above, or such additional time as may be allowed, the proceeds of Contractor's performance guaranty shall become subject to deposit into the Treasury of the municipality as monies available to compensate the Owner for damages as provided by A.R.S. § 34-201 for the delay in the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to perform this Contract as required. If Contractor has submitted a certified check or cashier's check as a performance guaranty, the check shall be returned after the completion of this Contract.

9. Labor Demonstration. It is understood that the work covered by this Contract is for the Owner's business purposes and that any unfavorable publicity or demonstrations in connection with the work will have a negative effect upon the Owner. If Contractor's actions in performance of the

Contract result in any public demonstration on behalf of the laborers or organized labor in the vicinity of the Owner's premises, whether such demonstration is in the form of picketing, posting of placards or signs, violence, threats of violence or in any other form, which in the Owner's judgment, might convey to the public the impression that the Owner or the Contractor or any subcontractor is unfair to laborers or to organized labor, the Owner shall have the right to terminate this Contract immediately, unless the Contractor shall have caused such demonstration to be discontinued within two (2) days after request of the Owner to do so. In the event any such demonstration is attended by violence, the Owner may fix lesser time within which a discontinuance shall be accomplished. In the event of Contract termination, the Contractor agrees to remove from the Premises within twenty-four (24) hours of termination, all machinery, tools, and equipment belonging to it or to its subcontractors. All obligations or liabilities of the Owner to the Contractor shall be discharged by such termination, except the obligation to pay to the Contractor a portion of the Contract price representing the value based upon the Contract prices of labor and materials incorporated in the work as established by the Owner, less the aggregate of all previous payments, but subject to all of the conditions pertaining to payments generally.

10. Material Storage. During the progress of the work, the Contractor shall arrange for office facilities and for the orderly storage of materials and equipment. Contractor shall erect any temporary structures required for the work at his or her own expense. The Contractor shall at all times keep the premises reasonably free from debris and in a condition which will not increase fire hazards. Upon completion of the work, the Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials and supplies belonging to the Contractor. Contractor shall leave the Premises in good order, clean, and ready to use by the Owner. The establishment of any temporary construction yard, material storage area or staging area to be located within City of Flagstaff limits and outside the public right-of-way or Project limits generally requires a Temporary Use Permit. (See Exhibit A, Section 107.2.1.)

11. Maintenance During Winter Suspension of Work. A "Winter Shutdown" is the period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the Contractor) on the Project and Contractor shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason*, on the Project. City retains the right to declare a Winter Shutdown. If work has been suspended due to winter weather, the Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

The City shall provide snow removal operations on active traffic lanes only during the Winter Shutdown. All other snow removal and maintenance operations shall be the responsibility of the Contractor during the Winter Shutdown. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations during the Winter Shutdown.

12. Assignment. Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner. No right or interest in this Agreement shall be assigned, in whole or in part, by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the City. The City shall not unreasonably withhold consent to such assignment. Contractor agrees that any assignment agreement between Contractor and the Assignee shall include and subject to the assignee to all obligations, terms and conditions of this Agreement and that Contractor shall also remain liable under all obligations, terms and conditions of this Agreement.

13. Notices. Many notices or demands required to be given, pursuant to the terms of this Contract, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below *and* to legal counsel for the party to whom the notice is being given.

If to Owner:

Patrick Brown, C.P.M.
Senior Procurement Specialist
211 West Aspen Avenue
Flagstaff, AZ 86001

If to Contractor:

Stanley S. Showalter
37905 N. 17th Lane
Phoenix, Arizona 85086

14. Contract Violations. In the event of any of the provisions of this Contract are violated by the Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate such Contract (the "Notice to Terminate"). The Contract shall terminate within five (5) days of the date Contractor receives the Notice to Terminate, unless the violation ceases and Contractor makes arrangements for correction satisfactory to the Owner. In the event of any such termination, the Owner shall immediately serve notice of the termination upon the Surety by registered mail, return receipt requested. The Surety shall have the right to take over and perform the Contract. If the Surety does not commence performance within ten (10) days from the date of receipt of the Owner's notice of termination, the Owner may complete the work at the expense of the Contractor, and the Contractor and his or her Surety shall be liable to the Owner for any excess cost incurred by the Owner to complete the work. If the Owner completes the work, the Owner may take possession of and utilize such materials, appliances and plants as may be on the worksite site and necessary for completion of the work.

15. Termination for Convenience. The Owner may terminate this contract at any time for any reason by giving at least **thirty (30) days** written notice to the Contractor. If termination occurs under this Section 15, the Contractor shall be paid fair market value for work completed by Contractor as of the date of termination. The parties agree that fair market value shall be determined based on the Contractor's original bid price, less any work not yet completed by the Contractor as of the date the written notice of termination is given to the Contractor.

16. Contractor's Liability and Indemnification. To the fullest extent permitted by law, Provider shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against liabilities, damages, losses and costs, including reasonable attorney fees, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the contractor, subcontractor or design professional or other persons employed or used by the contractor, subcontractor or design professional in the performance of the contract. The amount and type of insurance coverage requirements set forth in the Contract (Section 103.6 of Exhibit A) will in no way be construed as limiting the scope of the indemnity in this paragraph.

17. Non Appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Owner to meet the Owner's obligations under this Contract, the Owner will notify Contractor in writing of such occurrence, and this Contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted. No payments shall be made or due to the other party under this Contract beyond these amounts appropriated and budgeted by the Owner to fund the Owner's obligations under this Contract.

18. Amendment of Contract. This Agreement may not be modified or altered except in writing and signed by duly authorized representatives of the parties.

19. Subcontracts. Contractor shall not enter into any subcontract, or issue any purchase order for the completed work, or any substantial part of the work, unless in each instance, prior written approval shall have been given by the Owner. Contractor shall be fully responsible to the Owner for acts and omissions of Contractor's subcontractors and all persons either directly or indirectly employed by them.

20. Cancellation for Conflict of Interest. This Contract is subject to the cancellation provisions of A.R.S. § 38-511.

21. Compliance with All Laws. Contractor shall comply with all applicable laws, statutes, ordinances, regulations and governmental requirements in the performance of this Contract.

22. Employment of Aliens. Contractor shall comply with A.R.S. § 34-301, which provides that a person who is not a citizen or ward of the United States shall not be employed upon or in connection with any state, county or municipal public works project.

23. Compliance with Federal Immigration Laws and Regulations. Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. 23-214.A. Contractor acknowledges that pursuant to A.R.S. 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

24. Contractor's Warranty. Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A, Verification of Employment Eligibility. Contractor shall not employ aliens in accordance with A.R.S. § 34-301, Employment of Aliens on Public Works Prohibited. Contractor acknowledges that pursuant to A.R.S. § 41-4401, Government Procurement; E-Verify Requirement; Definitions, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this Contract, and that the Owner retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

25. Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona. The Contractor hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

26. Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

27. Time is of the Essence. Contractor acknowledges that the completion of the Contract by the dates specified final completion is critical to the Owner, time being of the essence of this Contract.

28. No Third Party Beneficiaries. The parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

29. Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Contract.

30. Severability. If any part of this Contract is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Contract shall remain in full force and effect unless the stricken provision leaves the remaining Contract unenforceable.

IN WITNESS WHEREOF, the Owner and Contractor, by their duly authorized representatives, have executed this Contract as of the date written above.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

Owner, City of Flagstaff

TSG Constructors, LLC

Jeff Meilbeck, Interim City Manager

Signature

Attest:

Printed Name

City Clerk

Title

Approved as to form:

City Attorney

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: David McIntire, Asst to CM for RE/Acting Com.
Inv. Mgr.
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Ordinance No. 2015-10: An ordinance of the Flagstaff City Council authorizing the City of Flagstaff to accept specific deeds of real property and easements and providing for the repeal of conflicting ordinances, severability, and authority for clerical corrections, and establishing an effective date *(Adopt ordinance authorizing acceptance of real property deeds and easements).*

RECOMMENDED ACTION:

- 1) Read Ordinance No. 2015-10 by title only for the final time
- 2) City Clerk reads Ordinance No. 2015-10 by title only (if approved above)
- 3) Adopt Ordinance No. 2015-10

Executive Summary:

Real property, whether in fee or in easement form, is often acquired during the development review process through dedication or donation. These acquisitions may be for drainage, utilities, the urban trails system, slopes, rights of way or other public purposes. The City Charter, in Article VII Section 5, requires the City to acquire real property by ordinance. The approval of this ordinance will formally accept the real property donated or dedicated to the city through the development review process or as necessary for an approved capital improvements project.

Financial Impact:

Real property is considered a fixed asset in the city. Until City Council approves an ordinance accepting the acquisition that value is not recognized in an audit so while there is actual financial expenditure associated with these acquisitions, there is a fixed asset value the city receives through this action.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

REGIONAL PLAN:

Goal OS 1 -The region has a system of open lands, such as undeveloped corridors and habitat areas, trails, access to public lands, and greenways to support the natural environment that sustains our quality of life, cultural heritage, and ecosystem health.

Goal WR4 - Logically enhance and extend the City's public water, wastewater, and reclaimed water

services including their treatment distribution and collection systems in both urbanized and newly developed areas of the city to provide efficient delivery of services.

Goal WR5 - Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections and rainwater harvesting.

Goal LU7 - Provide for public services and infrastructure.

Goal T4 - Promote transportation infrastructure and services that enhance the quality of life of communities within the region.

Has There Been Previous Council Decision on This:

An ordinance accepting previous dedications and donations was approved in October 2014. No previous decisions have been made regarding the dedications and donations listed in Exhibit A of the ordinance.

Options and Alternatives:

1) Approve Ordinance No. 2015-10 and accept the dedicated and donated real property into City of Flagstaff ownership. Pros: Formalizes the transfer of property rights to provide for community goals and benefits. Cons: No cons.

2) Approve Ordinance No. 2015-10 after removing specific acquisitions and accept the remaining dedicated and donated real property into City of Flagstaff ownership. Pros: Formalizes the transfer of property rights. Cons: No cons.

3) Not approve Ordinance No. 2015-10 and not accept the dedicated and donated property under consideration. This will nullify the dedication or donation and the grantor will retain ownership. Pros: No pros known. Cons: This will remove protections for utilities, trails, drainage and other public purposes.

Background/History:

Real property is acquired by the City, as necessary, when developments come through the permitting and review process. These properties can be easements to allow for a specific purpose such as a utility line or a drainage area, or they can be actual property received through a deed for rights of way or the protection of open space. The policy for City acceptance of these dedications is governed both by the charter and by internal process.

The City Charter, in Article VII Section 5, requires that all real property be acquired by ordinance. The most recent ordinance accepting donated and dedicated land was Ordinance 2014-24 which accepted real property acquired by donation or dedication prior to October 2014. Ordinance 2015-10 accepts all the real property donated or dedicated since that time. There is also an internal staff process for receiving donations and dedications which involves numerous internal stakeholders to ensure proper protection of the City including:

1. Review and approval by Community Development, Public Works, and/or Utilities regarding location, legal description, and purpose;
2. Review and approval of the conveyance documents by the City Attorney's Office;
3. Review and approval of proof of ownership and authority to convey through examination of title and other relevant documents by Real Estate and/or the City Attorney's Office;
4. When received in fee there is due diligence and approval regarding potential contamination risk through the Sustainability and Environmental Management Section;
5. Final, recordation through the City Clerk's Office.

Key Considerations:

Real property is acquired throughout the year by donation and dedication necessary to achieve the Council and Regional Plan goals and to ensure utilities, roads, and specialized area are properly protected.

All real property must be acquired by ordinance per the City Charter.

There is a due diligence process that each acquisition goes through to ensure it is donated or dedicated properly and that the City's interests are protected.

Ordinance 2015-10 will accept the real property already received and recorded since October 2014.

These acquisitions are necessary for the provision of services as the community grows and the liability assumed is consistent with these same real property rights throughout the community.

Community Benefits and Considerations:

Community benefits of the acceptance of the parcels includes proper protection for rights determined necessary for utilities, urban trail systems, drainages, slopes, open spaces, rights of way and others.

Community Involvement:

Inform

Attachments: Ord. 2015-10

ORDINANCE NO. 2015-10

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE CITY OF FLAGSTAFF TO ACCEPT SPECIFIC DEEDS OF REAL PROPERTY AND EASEMENTS AND PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff ("City") has obtained numerous deeds and easements for real property through grants and donations that have not been formally accepted by City Council; and

WHEREAS, pursuant to Article VII, Section 5 of the Flagstaff City Charter, the City shall acquire real property by ordinance.

ENACTMENTS:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: That the acceptance of the specific grants and donations of interests in real property as more particularly described and depicted in Exhibit A, attached to this ordinance, are hereby authorized and ratified.

SECTION 2: That the City Manager, the City Attorney, the City Clerk, the Finance Director, the Assistant to the City Manager for Real Estate, or other employees or agents as deemed necessary, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the Flagstaff City Code adopted herein by reference are hereby repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary, related to this ordinance as amended herein,

and to make formatting changes needed for purposes of clarity and form, or consistency, within thirty (30) days following adoption by the City Council.

SECTION 6. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of May, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A - Donations and Dedications List

	Document Number	Recordation Date	Rights	Grantor	Landmark or General Area	Size (SF)	Docs
1	3701703	9/12/2014	Drainage Easement	NAIPTA	New NAIPTA facility Kaspar	22,862	1
2	3701704	9/12/2014	Public Utility Easement	NAIPTA	New NAIPTA facility Kaspar	9,173	1
3	3701702	9/12/2014	Public Slope Easement	NAIPTA	New NAIPTA facility Kaspar	22,862	1
4	3714553	2/24/2015	Easement for Public Utilities	NAIPTA	Continental Dr Overpass	553	1
5	3701701	9/12/2014	Urban Trail Easement	NAIPTA	New NAIPTA facility Kaspar	22,862	1
6	3701700	9/12/2014	Warranty Deed	NAIPTA	New NAIPTA facility Kaspar	2,323	1
7	3711317	1/12/2015	Quit Claim Deed	NAIPTA	Continental Dr Overpass	2.7458 Ac	1
8	3712951	2/4/2015	Easement for Water Utilities	NAIPTA	Little America Frontage	1,000	1
9	3718728	4/17/2015	Special Warranty Deed	NAIPTA	Aspen Place at Sawmill	223	1

SF Total 81,858

Under
Acres 10 acres

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Malcolm Alter, Stormwater Program Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution 2015-17 and Ordinance No. 2015-07: A resolution of the Flagstaff City Council declaring the Revised Stormwater Utility Credit Manual a public record and an ordinance adopting the Revised Stormwater Utility Credit Manual by reference. ***(Updates and revisions to Stormwater Utility Credit Manual)***

RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2015-17
- 2) Read Ordinance No. 2015-07 by title only for the final time
- 3) City Clerk reads Ordinance No. 2015-07 by title only for the final time (if approved above)
- 4) Adopt Ordinance No. 2015-07

Executive Summary:

The Credit Manual was originally adopted by Ordinance No. 2006-17 on July 18, 2006. The Credit Manual provides discounts on the Stormwater Utility bills for on-site improvements or activities related to stormwater quantity (flood control) or stormwater quality improvements. The Ordinance is in need of updating and minor housekeeping changes. Proposed credit amounts have not changed.

The Water Commission considered the Ordinance at their meetings of October 2014 and December 2014, and recommend approval of the Ordinance. Staff summaries of these two meeting are attached.

Financial Impact:

Credit amounts decrease the revenue of the Stormwater Utility. The Water Commission discussed these concerns as indicated in the attached staff summaries. To summarize, the amount of existing credits is \$9,465 per year and the potential exposure to the Utility, if every eligible credit was provided is estimated at \$50,000 to \$75,000 per year. The annual revenue of the Utility is about \$1.4 million.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 1) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 2) Ensure that we are as prepared as possible for extreme weather events

Adoption of the original Ordinance in 2006.

The Water Commission considered three alternatives during their discussion. These options are also available for Council consideration.

- The Water Commission chose option 2 and recommends approval of the attached Ordinance and Credit Manual. Much discussion occurred related to the options above. These discussions are related to the attachments, a summary of is as follows:

- Credits allow for a reduced stormwater utility bill for homeowners and businesses based on reduced impact to the stormwater system.

Involve
Collaborate
Empower

Outreach is often provided to the public via Cityscape, website and other methods, to educate the public about the credits and how to apply for them.

The Water Commission considered the Credit Manual during two meetings in October and December of 2014.

WC-October
WC-December
Ordinance 2006
Res. 2015-17
Ord. 2015-07

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

REPORT TO THE WATER COMMISSION

Malcolm Alter, Stormwater Manager

Prepared by

FROM: UTILITIES DEPARTMENT

Date: October 8, 2014

MEETING OF: October 16, 2014

Department Head Signature

AGENDA ITEM: Introduction to, and Consideration of, Revisions to the Stormwater Credit Manual

STATEMENT:

This is proposed to be the first of two meetings with the Water Commission to consider revisions to the Stormwater Credit Manual (SCM). The Credit Manual was adopted by Ordinance No. 2006-17 on July 18, 2006. This first meeting is intended to provide background and history of the SCM and receive input and questions. The second meeting is intended as an action item to formally recommend changes, if any, to the SCM for consideration by Council.

RECOMMENDATION:

This meeting is intended as informational. Input from the Water Commission is appreciated to help develop a draft of proposed revisions to be considered formally at the next meeting.

DISCUSSION:

Referencing the attached SCM, a number of references within the document are old and outdated. You will note that the SCM is labeled as “interim”. Reference is given to the need to complete the City’s Stormwater Master Plan. Although there is no one single Master Plan, the master-planning effort is substantially complete at this time. The SCM was also developed prior to the City’s development of the Stormwater LID Manual, which is now complete. Further complicating the adoption of a “final” SCM, the City has been involved in a lawsuit surrounding the Stormwater Utility. The lawsuit has now been settled. The SCM was originally part of the complaints filed by the plaintiffs in the lawsuit. However, as the case progressed, the SCM was found to be in conformance with law and was not part of the settlement or the case in general. It should be noted that the specific area of concern was the rain-barrel credit of 10%. Although the credit is not proportional respecting the quantity of stormwater retained on-site, the element of conservation must also be considered. In that regard, the rain-barrel credit is appropriate.

The SCM is fully functional in its present form, albeit outdated. More specifically, the credit affected is for the implementation of LID which is not specifically cited in the SCM. However, the general credit for “Stormwater Quality BMP’s” covers LID and credit has been provided accordingly.

Possible outcomes for consideration by the Water Commission include:

- Should the SCM not be revised (“do nothing alternative”)?
- What should the changes be? Should the changes be updating and clarifying only?
- Should we consider changing the credit values?

The development of specific credit values was based on the existing stormwater program and the effectiveness of the stormwater control on our stormwater system. This methodology is explained in detail within the SCM. An examination of the Stormwater Work Program shows that these numbers may change slightly. Staff will assess the program and make the necessary changes for the second meeting with the Water Commission, assuming the Water Commission would like to move forward with revisions.

On the attached SCM, staff has provided some recommendations and thoughts for discussion.

Attachment: Stormwater Credit Manual w/ staff comments

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

REPORT TO THE WATER COMMISSION

Malcolm Alter, Stormwater Manager

Prepared by

FROM: UTILITIES DEPARTMENT

Date: December 5, 2014

MEETING OF: December 18, 2014

Department Head Signature

AGENDA ITEM: Consideration of the Revised Stormwater Credit Manual

STATEMENT:

This is proposed to be the second of two meetings with the Water Commission to consider revisions to the Stormwater Credit Manual (SCM). The Credit Manual was adopted by Ordinance No. 2006-17 on July 18, 2006. This meeting is intended as an action item to formally recommend changes, if any, to the SCM for consideration by Council.

RECOMMENDATION:

It is requested that the Water Commission consider a recommendation to Council for approval for the revised SCM.

DISCUSSION:

At the Water Commission Meeting of October 16th, staff presented proposed changes and formatting concerns to the Commission. A number of concerns and observations were noted. Below is a summary of issues and staff responses:

1. *The existing Manual contains excessive mathematical justification. Consider pulling out math.*
Staff response: The math has been simplified and contained within a document that will be provided to Council as back-up materials, but will not be part of the Ordinance. The actual credit amounts are specifically contained within the Ordinance. The City Attorney's Office has determined that this is acceptable.
2. *Consider taking out the application.*
Staff response: The application is part of the supporting documentation and will not be in the Ordinance.
3. *Does this have to be an Ordinance?*
Staff response: The City Attorney's Office recommends an Ordinance.

4. *Clarify partial proportionate credit.*

Staff response: Language has been changed to “prorated”.

5. *Quantify dollar amounts of existing credits and amount of potential exposure.*

Staff response: The following table provides that information on existing credits:

Rate	Type	# of Accounts	Annual \$ Amount
C 9%	25 yr detention	2	\$101
C 19.25%	100 yr det.	4	\$1,285
C 22%	Quality BMP	1	\$2,231
C 68%	Quality BMP	2	\$1,560
R 9%	25 yr det.	1	\$3
R 19.25%	100 yr. det	419	\$3,371
R 29.25%	Det +rainbarrel	12	\$164
R 68%	Quality BMP	2	\$74
R 10%	Rainbarrels	59	\$276
		Total Annual Credit	\$9,465

C=commercial

R=residential

It is difficult to determine specific exposure. However assuming that about 25% of the City was constructed after the year 1990, this would also equate to 25% of the Utility income. Assuming a 15% credit for this proportion, total exposure would be \$50,000 to \$75,000 per year. Obviously, this is an order of magnitude estimate.

6. *Consider impacts of cost recovery on rain barrels.*

Staff response: The cost is \$150 for two 55 gallon rain barrels, or \$1.36 per gallon initial price. The price of potable water is about \$2.50 / 1000 gallons. Rain barrels would need to fill 544 times to break even with the cost of potable water.

7. *Consider eliminating the conservation easement.*

Staff response: There are several developments in the planning stages that would have this option, for that reason, staff is recommending keeping this credit available.

A summary of the document changes and items in your packet for consideration are:

- A staff document entitled “Determination of Stormwater Credit Amounts”. This serves as the back-up document as to how the credits are calculated and applied. This was formerly in the Ordinance itself. The credits are basically the same, some rounding has occurred as the methodology is general in nature. The application is included in this document.
- A draft Ordinance that includes the basic credit amounts.

Summary

The proposed revisions to the SCM are primarily formatting and simplification. Specific credit amounts have not changed except for general mathematical rounding. Credit amounts are typically derived quantitatively, with the exception of residential rain barrels, conservation easements and educational programs. It is anticipated that some conversation related to the qualitative credits, specifically the residential rain barrel credit may occur with Council, as it has with the water Commission.

Attachments:

Stormwater Credit Manual w/ staff comments (as previously provide at the Water Commission meeting of October 16th)

Determination of Stormwater Credit Amounts, December 2014

Draft Ordinance

Staff comments in red.



EXHIBIT A

City of Flagstaff, Stormwater Division

Interim Stormwater Utility Credit Manual

Remove “interim”

This Credit Manual is provided pursuant to the provisions of the Stormwater Management Utility Ordinance (Division 12-02-001). Section 12-02-001-000(g) states that “. . . credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, charges, fines, and penalties”

Furthermore, said Ordinance defines “credit” as “. . . a program or service or activity that reduces the Stormwater Management Utility’s cost of providing stormwater management programs . . .”.

At present, this Manual has been adopted on an interim basis due to pending development of the City’s Stormwater Master Plan. The Master Plan will specifically identify stormwater quantity and quality Best Management Practices (BMP’s). These BMP’s will be incorporated into the Manual in order to provide credits to the community.

Stormwater quality BMP’s needs to changed to LID/water harvesting...

In order to be fair and equitable to the community, the credits may be applied retroactively to the initial billing date of July 1, 2003. However, a sunset date is established for the retroactive credit. Applications made after July 1, 2007, will not receive the retroactive credit, but will be credited on future bills according to the appropriate credit. For some stormwater controls, the credit is provided in a two-tier approach corresponding to changes in the credit structure per Ordinance 2006-002.

This Manual has been revised pursuant to the stormwater utility rate increase detailed in City Ordinance No. 2006-02. Credits have been changed for detention basins and stormwater quality best management practices (BMP’s). Due to changes in the City’s Stormwater Management Program, credits for detention basins constructed after year 2000 have increased from 12.5% to 19.25%, and for basins constructed prior to the year 2000, credits have increased from 5% to 9%. Due to these changes, the retroactive credit will be apportioned accordingly, as detailed in the Application. The credit for stormwater quality BMP’s has increased from 50% to 68% and will also be credited in a phased approach.

The above gets omitted....

The following is a proposal to provide credits for the Stormwater Utility Fee. The credit is based on stormwater quantity and quality issues as discussed below:

City Stormwater Program Elements

An assessment of the City's Stormwater Management Activities is necessary in order to determine appropriate credits. Essentially, the Program has two overall functional areas that include many sub-categories: Stormwater Quantity and Stormwater Quality. Stormwater Quantity is clearly the larger of the two and includes the following activities:

- Regulatory Compliance: FEMA Regulations, ADWR Regulations, City Floodplain Regulations, Floodplain Permits, CRS, NFIP
- Civil Plan Review and Drainage Report Review
- Capital Drainage Improvement Program
- Drainage Complaint resolution
- Special Projects: rain and stream gages, LIDAR
- Masterplan

Stormwater Quality activities include:

- NPDES Compliance Activities

As the Stormwater Program is evolving via the proposed Master Plan, qualitative assessments must be performed. Below is a breakdown of staffing allocations.

• <u>Regulatory Compliance</u>	<u>19.5%</u>
• <u>Civil Plan Review/Drainage Report</u>	<u>18%</u>
• <u>Capital</u>	<u>14%</u>
• <u>Special Projects</u>	<u>7%</u>
• <u>Master Plan</u>	<u>14%</u>
• <u>NPDES Compliance</u>	<u>26.5%</u>

The above numbers to be revised: only slight changes anticipated.

An assessment of the mitigations created by detention basins shows an impact of approximately 38.5% of the Stormwater Division activities (10% of regulatory, 3.5% special projects, and 11% Master Plan, and 14% Capital Improvements). Quality improvements and volume decreases (done together) impact approximately 68% of the program (same as for detention adding NPDES Compliance and 3% Master Plan).

The above methodology should probably be contained in an administrative document. Rarely does something like this appear in an Ordinance.

Stormwater Quantity

- Detention/Retention Basins

Stormwater detention/retention provides benefit to the City's stormwater conveyance system by attenuating the peak runoff leaving a site and thereby reducing the peak discharge on the receiving watercourse in most instances. Credits are proposed on a tiered basis for detention basins depending on the peak mitigation pursuant to the City Regulations that were effective at the time of construction.

Retention is not generally allowed per City Code. However, an exemption may be granted due to topography. For those rare instances resulting in a City-approved retention facility, credits are proposed

to be the same as detention facilities. This needs some changes, probably remove retention now, with the adoption of LID.

An examination of the City runoff coefficients for developed versus undeveloped property and application of the Rational Equation show that impervious surface versus natural ground results in an increase of about 40-50% in volume of runoff. Post-development discharge peak rates are required to be no more than pre-developed conditions. Therefore, detention reduces the rate at which stormwater leaves a site by 40-50% (as opposed to no detention and a developed site). The specific amount of increase or decrease is dependent upon the existing site condition. On the primary watercourse, the peak discharge is reduced less than these numbers due to the volume increase and the effect of those volume increases on the hydrograph of the receiving watercourse.

There are difficulties in determining an appropriate credit for stormwater detention. When considering flood control over the entire receiving watercourse, the effects of detention are different based on the location in the watershed. For example, detention performed in certain portions of the watershed may actually increase the peak discharge, while a peak reduction can occur if detention is waived within certain portions of the watershed. The proposed City Drainage Master Plan is intended to help address these difficulties. The credit proposed for detention basins constructed prior to year 2000 is based on an assessment of the discharge rate of 100 year detention (current standard) as opposed to 25 year detention (pre-2000 standard).

A lot of the “justification” wording should be omitted....same discussion as above, should be in administrative document?

A developed property that utilizes stormwater detention typically must reduce the peak flow by about 50% in order to meet the peak discharge of the pre-developed conditions. Therefore, since the peak discharges are decreased on average about 50% and detention impacts about 38.5% of the current program, detention/retention credits should be 19.25% for detention/retention basins constructed after year 2000 and 9% for detention/retention basins constructed prior to year 2000.

- Stormwater Quality Improvements; Implementation of Stormwater Quality BMPs

There is a clear benefit to the City’s conveyance system and the quality of our stormwater based on the implementation of a BMP that improves water quality and that may achieve a reduction in the amount or volume of stormwater released from a site. Detention provides no such benefit; and retention is generally not allowed per the City’s Regulations. However, with the development of new BMPs, opportunities for stormwater quality improvements and volume reductions exist. Examples of BMPs that improve quality and reduce volumes are porous pavements, grassy swales, and artificial wetlands. In order to satisfy the City’s exclusion of stormwater retention, a volume reduction proposal must be associated with a stormwater quality BMP that is reviewed and approved by the City. Criteria that will be considered includes infiltration, use of certain plants that demonstrate significant uptake of pollutants and assurances that standing stormwater will dissipate within a certain amount of time and not become a vector control issue. A credit is proposed for a quality improvement and volume reduction.

Demonstration of a Stormwater Quality BMP that improves water quality and contains the 100 year flood volume should be credited 68% with partial, proportionate credit provided for containment and water quality improvements of lesser rainfall-runoff events.

The above needs to be changed to LID/rain water harvesting, specific LID/Harvesting amounts to be included (1 inch of LID). Note: still need overall proportionate share as some developments do more or less than the required 1 inch threshold.

- Conservation Easements

A credit is proposed for the recordation of a Conservation Easement. A Conservation Easement is defined as a nonpossessory interest of a holder in real property that, for conservation purposes as defined by A.R.S. 33-271(2), permanently protects that property from being developed or otherwise altered from its natural state in the future. A Conservation Easement operates like a deed restriction and is held by a governmental body empowered to hold an interest in real property, or by a charitable corporation or trustee of a charitable trust.

To qualify for a stormwater credit, the Conservation Easement must protect a minimum of 10 contiguous acres. The effect of the undisturbed land on stormwater quality can only be measured qualitatively. The Conservation Easement is directly related to stormwater quality, which is presently 25% of the City's stormwater program.

The proposed credit for the granting of a Conservation Easement is 10%.

- Development and Implementation of a Structured Educational Program.

A credit is proposed for an institution or organization that develops and implements a Public Education Program for primary, secondary and college-level students on stormwater management and water quality issues. The program must be designed to meet the goals and requirements of public education and outreach as defined in 40 CFR Parts 9, 122, 123 and 124 and also, A.R.S., Title 49, Chapter 2, Article 3.1 and Arizona Administrative Code, Title 18, Chapter 9, Articles 9 and 10.

The effects of a public education program on stormwater quality can only be assessed qualitatively, but it is considered a vital component of the City's Stormwater Quality Program. If such a program is properly structured, the program would assist the City with NPDES compliance activities. If an applicant proposes such a program, the City should assist in program development to ensure compliance with the above-cited requirements.

The proposed credit for the development of a Structured Educational Program is up to 20%. The Credit will be provided so long as the Educational Program is active.

- Water Harvesting for Residential Development

Residents who provide rain barrels of sufficient size on roof downspouts or other similar method(s) of collecting rainwater and use the rainwater for irrigation or consumption should be afforded credits. Collection of rainwater relates to reduced volume as well as improvements in quality.

A typical rain barrel only collects a small percentage of the total runoff from a typical roof section during the 100-year event. For a 20x20' roof section, 1000 gallons may be expected to run off. Nevertheless, there is a significant impact to water quality issues that must be addressed qualitatively. Roofs generate metals as pollutants and frequent rainfall runoff events are captured. The use of the roof water on vegetation as irrigation results in improvements to water quality.

The proposed credit for the installation of rain barrels on all residential downspouts should be credited 10%.

Proposed Procedure For Application of Credits:

An applicant must complete the attached Application Form and submit it to the Stormwater Division. Staff will review the application to assess completeness and partial credits, if any. Assuming eligibility requirements are met, an adjustment to the utility bill will be entered within 10 business days after the completion of the staff review.

The Stormwater Division Staff will provide periodic inspection activities to verify credits and to verify that credited facilities are being properly maintained. Upon discovery of a deficiency, a letter will be sent to the applicant noting the deficiency and suspension of the credit. Upon receipt of a correction notification attesting that the deficiencies have been corrected and upon verification of the corrections by the City, the credit will be reinstated.



City of Flagstaff, Stormwater Division

Application for Interim Stormwater Credit

Dear Citizen;

This is an application to the City of Flagstaff to reduce your Stormwater Utility Fee. If you have implemented certain Stormwater controls on your property, you may be eligible for a reduction in your current fee. Please check the appropriate boxes and provide any necessary supporting documents requested with this application. An incomplete application will not be processed.

Upon review, verification and approval of your application, the City will provide the credit to your account within 10 business days. A copy of the processed application will be provided to you for your records.

CREDITS:

Update/remove retroactive...

___ **Stormwater Detention/retention** (commercial, industrial, multi-family, and members of homeowners associations):

___ There is a detention/retention basin on my property constructed after year 2000 that provides detention/retention for the 2, 10 and 100-year events. The basin is presently functional and maintenance is performed as necessary (for a home owner's association, please provide documentation that basins are inspected and maintained).

A 12.5% credit is provided from July 1, 2003 to July 6, 2006 and a credit of 19.25% is provided from July 7, 2006 henceforth.

___ There is a detention/retention basin that was constructed between years 1990 and 2000 that provides detention/retention for the 25-year flood event. The basin is presently functional and maintenance is performed as necessary (for home owner's association, please provide documentation that basins are inspected and maintained).

A 5% credit is provided from July 1, 2003 to July 6, 2006 and a credit of 9% is provided from July 7, 2006 henceforth.

___ **Residential Water Harvesting**

___ I have installed at least two rain barrels, of a minimum 50 gallon capacity each, on roof downspouts and utilize the stormwater for irrigation or other recycling purposes, or I have installed other types of catchments and reuse the stormwater for purposes of recycling. Attached is a sketch of my lot and house showing the locations and sizes of my rain barrels or catchments. Also attached is a description of the use of the stormwater.

A 10% credit may be applied.

___ **Stormwater Quality BMPs** (residential, commercial, and industrial) **update LID/RWH**

___ I have implemented Stormwater Quality Best Management Practices (BMPs) on my property according to recognized BMP manuals that improve the water quality of the runoff leaving my property or to reduce the quantity of runoff leaving my property. Attached I have included a description of the BMPs I have implemented, a sketch of my property and have shown the location of the BMPs.

Up to a 50% credit is provided from July 1, 2003 to July 6, 2006 and a credit of up to 68% is provided from July 7, 2006 henceforth.

___ **Conservation Easement**

___ I am applying for the Conservation Easement Credit and have attached a copy of the recorded Conservation Easement, recorded Holder Acceptance, and survey map with legal description of the Conservation Easement. I acknowledge that the Conservation Easement protects at least 10 contiguous acres. Note: Prior to recordation of the Conservation Easement and Holder Acceptance, the applicant is encouraged to have all of the required documentation reviewed by City staff.

A 10% credit may be applied.

___ **Structured Educational Program**

___ My institution/organization is applying for the credit for the development and implementation of a Stormwater Education Program. I have developed the program in conjunction with City staff and the program meets the goals and requirements of appropriate State and Federal Codes.

Up to a 20% credit may be provided.

___ **Retroactive Credit Request** Remove

I would like to request that my credit be applied retroactively. I attest that the stormwater measures checked above have been in place and functioning since _____ (month/year). I also attest that I have owned or lived at the property since _____ (month/year). I also hereby give the City permission to enter my property for the purpose of inspecting and verifying the requested stormwater facilities. **Expired** I also hereby give the City permission to enter my property for the purpose of inspecting and verifying the requested stormwater facilities. Stormwater credits are not applicable prior to the initial billing date of July 1, 2003 or creditable to previous property owners. This retroactive credit provision expires July 1, 2007.

Name: _____

Site Address: _____

Mailing Address: _____

Telephone (wk/home): _____

Subdivision Name (if applicable): _____

Home Owner's Association Name and contact phone # (if applicable)

By signing below, I attest that the above information is true and correct. I acknowledge and agree that the City of Flagstaff may inspect my property to verify that my stormwater credits are existing and functioning properly. I further agree that I will ensure that my stormwater facilities will be properly maintained. I understand that if my stormwater facilities are no longer in place, or are not functioning properly, my credit will be revoked. I also acknowledge that misrepresentation of the above information may constitute fraud and may be punishable by law.

Print Name

Signature

You will be sent an executed copy of this form for your records.

For office use only

Received by: _____

Application Verification: _____

Date applied toward billing: _____

Authorized signature: _____

RESOLUTION NO. 2015-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK ENTITLED THE “REVISED STORMWATER UTILITY CREDIT MANUAL” AND DECLARING AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provision of the City Code by reference to a public record, providing that the adopting ordinance is published in full;

ENACTMENTS:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1.

That certain document known as “*REVISED STORMWATER UTILITY CREDIT MANUAL*”, attached hereto as Exhibit A, three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

SECTION 2.

This resolution shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this _____ day of _____, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A
UTILITIES DIVISION
Stormwater Management



REVISED STORMWATER UTILITY CREDIT MANUAL

Prepared by Malcolm Alter
December 2014

The following is a general accounting for the determination of appropriate credits for the Stormwater Utility Fee. The credit is based on stormwater quantity and quality issues as discussed below:

City Stormwater Program Elements

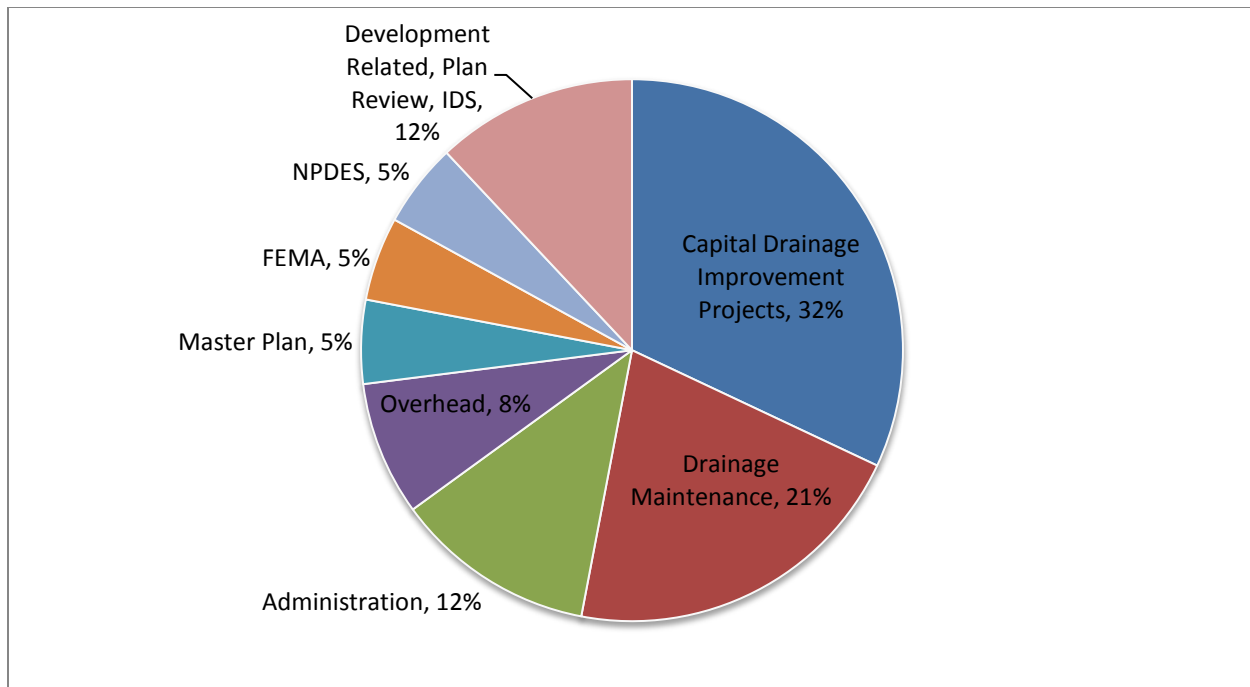
An assessment of the City's Stormwater Management Activities is necessary in order to determine appropriate credits. Essentially, the Program has two overall functional areas that include many sub-categories: Stormwater Quantity and Stormwater Quality. Stormwater Quantity is clearly the larger of the two and includes the following activities:

- Regulatory Compliance: Federal Emergency Management Agency (FEMA) Regulations, Arizona Department of Water Resources (ADWR) Regulations, City Floodplain Regulations, Floodplain Permits, Community Rating System (CRS), National Flood Insurance Protection (NFIP);
- Civil Plan Review and Drainage Report Review;
- Capital Drainage Improvement Program;
- Masterplan activities;
- Drainage Maintenance.

Stormwater Quality activities include:

- National Pollutant Discharge Elimination System (NPDES) Compliance Activities;
- Low Impact Development projects.

The general budget breakdown for Stormwater Section activities are shown in the following pie chart:



Relationship of mitigations to program elements

The goal of determining specific credit amounts is based on the effectiveness of the mitigation and its relationship to the program. Please note that the calculation of specific credit amounts are based off data that is subject to minor fluctuations respecting specific budget items in any given year. Therefore credit calculations should be considered general in nature.

Detention Basins

Detention basins control the rate of runoff thereby ensuring that downstream properties are not adversely impacted by increased flow rates. Detention is directly related to capital improvements (controlling the need for upsizing), FEMA activities (flooding potential) and Master Planning (flood flow increases). Furthermore, detention can reduce flood flow rates by up to 50% when compared with pre-development flood flows.

Therefore, a credit for detention basins that meet the current standard for attenuation of the 100-year storm is 20%.

For detention basins constructed from 1990 to 2000 that are only designed to attenuate the 25-year storm, a credit of 9%.

Low Impact Development (LID) and Active Rainwater Harvesting (non-residential)

LID facilities or active rainwater harvesting systems designed to retain 1 inch of runoff have direct relationships with Capital Improvements, FEMA activities, NPDES and

4master planning. Also, LID or active rainwater harvesting retains 1 inch of stormwater as compared to the 100 year 24-hour storm volume of 4.5 inches.

Therefore a credit of 10% is provided for LID or active rainwater harvesting mitigations constructed to the 1 inch level. Credit may be provided for varying amounts of LID on a prorated basis not to exceed 68%.

Conservation Easements

A credit for the recordation of a Conservation Easement. A Conservation Easement is defined as a non-possessory interest of a holder in real property that, for conservation purposes as defined by A.R.S. 33-271(2), permanently protects that property from being developed or otherwise altered from its natural state in the future. A Conservation Easement operates like a deed restriction and is held by a governmental body empowered to hold an interest in real property, or by a charitable corporation or trustee of a charitable trust.

To qualify for a stormwater credit, the Conservation Easement must protect a minimum of 10 contiguous acres. The effect of the undisturbed land on stormwater quality can only be measured qualitatively. The Conservation Easement must contain significant stormwater assets, such as regional watercourses to be eligible.

The credit for the granting of a Conservation Easement is 10%.

Development and Implementation of a Structured Educational Program

A credit for an institution or organization that develops and implements a Public Education Program for primary, secondary and college-level students on stormwater management and water quality issues. The program must be designed to meet the goals and requirements of public education and outreach as defined in 40 CFR Parts 9, 122, 123 and 124 and also, A.R.S., Title 49, Chapter 2, Article 3.1 and Arizona Administrative Code, Title 18, Chapter 9, Articles 9 and 10.

The effects of a public education program on stormwater quality can only be assessed qualitatively, but it is considered a vital component of the City's Stormwater Quality Program. If such a program is properly structured, the program would assist the City with NPDES compliance activities. If an applicant proposes such a program, the City should assist in program development to ensure compliance with the above-cited requirements.

The proposed credit for the development of a Structured Educational Program is up to 20%. The Credit will be provided so long as the Educational Program is active.

Water Harvesting for Residential Development

Residents who provide rain barrels of sufficient size on roof downspouts or other similar method(s) of collecting rainwater and use the rainwater for irrigation or consumption

should be afforded credits. Collection of rainwater relates to reduced volume as well as improvements in quality.

A typical rain barrel only collects a small percentage of the total runoff from a typical roof section during the 100-year event. For a 20x20' roof section, 1000 gallons may be expected to run off. Nevertheless, there is a significant impact to water quality issues that must be addressed qualitatively. Roofs generate metals as pollutants and frequent rainfall runoff events are captured. The use of roof water as irrigation on vegetation results in improvements to water quality. Harvesting also decreases demands on potable water use.

The credit for the installation of rain barrels on all residential downspouts should be credited 10%.

Procedure For Application of Credits:

An applicant must complete the Application Form and submit it to the Stormwater Division. Staff will review the application to assess completeness and partial credits, if any. Assuming eligibility requirements are met, an adjustment to the utility bill will be entered within 10 business days after the completion of the staff review.

The Stormwater Division Staff may provide periodic inspection activities to verify credits and to verify that credited facilities are being properly maintained. Upon discovery of a deficiency, a letter will be sent to the applicant noting the deficiency and suspension of the credit. Upon receipt of a correction notification attesting that the deficiencies have been corrected and upon verification of the corrections by the City, the credit will be reinstated.



City of Flagstaff, Stormwater Division

Application for Stormwater Utility Fee Credit

Dear Citizen;

This is an application to the City of Flagstaff to reduce your Stormwater Utility Fee. If you have implemented certain Stormwater controls on your property, you may be eligible for a reduction in your current fee. Please check the appropriate boxes and provide any necessary supporting documents requested with this application. An incomplete application will not be processed.

Upon review, verification and approval of your application, the City will provide the credit to your account within 10 business days. A copy of the processed application will be provided to you for your records.

CREDITS:

___ **Stormwater Detention** (commercial, industrial, multi-family, and members of homeowners associations):

___ There is a detention basin on my property constructed after year 2000 that provides detention for the 2-year, 10-year, and 100-year events. The basin is presently functional and maintenance is performed as necessary (for a home owner's association, please provide documentation that basins are inspected and maintained).

A credit of 20% is provided.

___ There is a detention basin that was constructed between years 1990 and 2000 that provides detention for the 25-year flood event. The basin is presently functional and maintenance is performed as necessary (for home owner's association, please provide documentation that basins are inspected and maintained).

A 9% credit is provided.

___ **Residential Water Harvesting** (individual residential only):

___ I have installed at least two rain barrels, of a minimum 50 gallon capacity each, on roof downspouts and utilize the stormwater for irrigation or other recycling purposes, or I have installed other types of catchments and reuse the stormwater for purposes of recycling. Attached is a sketch of my lot and house showing the locations and sizes of my rain barrels or catchments. Also attached is a description of the use of the stormwater.

A 10% credit is provided.

_____ **Low Impact Development (LID) or Active Rainwater Harvesting (commercial, industrial, multi-family or members of homeowner's associations)**

_____ **My property has been constructed with city-approved LID or active rainwater harvesting. The facilities are presently functional and maintenance is performed as necessary (for home owner's association, please provide documentation that facilities are inspected and maintained).**

A 10% credit is provided. Partial, prorated credits may be applied for varying amounts of LID/Active harvesting.

_____ **Conservation Easement**

_____ I am applying for the Conservation Easement Credit and have attached a copy of the recorded Conservation Easement, recorded Holder Acceptance, and survey map with legal description of the Conservation Easement. I acknowledge that the Conservation Easement protects at least 10 contiguous acres. Note: Prior to recordation of the Conservation Easement and Holder Acceptance, the applicant is encouraged to have all of the required documentation reviewed by City staff.

A 10% credit is provided.

_____ **Structured Educational Program**

_____ My institution/organization is applying for the credit for the development and implementation of a Stormwater Education Program. I have developed the program in conjunction with City staff and the program meets the goals and requirements of appropriate State and Federal Codes.
Up to a 20% credit may be provided.

Name: _____

Site Address: _____

Mailing Address: _____

Telephone (wk/home): _____

Subdivision Name (if applicable): _____

Home Owner's Association Name and contact phone # (if applicable)

By signing below, I attest that the above information is true and correct. I acknowledge and agree that the City of Flagstaff may inspect my property to verify that my storm water facilities, as indicated above, exist and function properly to be eligible for stormwater credits. I further agree that I will ensure that my stormwater facilities will be properly maintained. I understand that if my stormwater facilities are no longer in place, or are not functioning properly, my credit will be revoked. I also acknowledge that misrepresentation of the above information may constitute fraud and may be punishable by law.

Print Name _____ Signature _____

You will be sent an executed copy of this form for your records.

For office use only

Received by:

Application Verification:

Date applied toward billing:

Authorized signature:

ORDINANCE NO. 2015-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, CHAPTER 12-02, *STORMWATER MANAGEMENT UTILITY*, BY ADOPTING THE “REVISED STORMWATER UTILITY CREDIT MANUAL” AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK RELATING TO THE PROVISION OF STORMWATER UTILITY CREDITS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, on March 18, 2003, the City of Flagstaff (“City”) enacted the Stormwater Management Utility regulations as Division 12-02-001 of the City Code (“Stormwater Regulations”), thereby establishing the Stormwater Management Utility and, among other matters, establishing the Stormwater Management Utility Service Charge (“Service Charge”); and

WHEREAS, Section 12-02-001-0001 of the Stormwater Regulations recognizes that credits are an appropriate means of adjusting fees, rentals, charges, fines and penalties; and

WHEREAS, Section 12-02-001-0008(c) of the Stormwater Regulations requires the provision of credits against Service Charges and/or other methods of funding stormwater management; and

WHEREAS, on November 2, 2004 the City Council adopted Ordinance No. 2004-22, which established an Interim Stormwater Utility Credit Manual (“Interim Credit Manual”) as authorized by Section 12-02-001-0001 and 10-02-001-0008(c) of the Stormwater Regulations; and

WHEREAS, on July 18, 2006 the City Council adopted Ordinance No. 2006-17 to increase Service Charges and adopt a revised Interim Credit Manual under the Stormwater Regulations with a new fee structure which was implemented incrementally; and

WHEREAS, the Stormwater Division has again prepared and proposes that the Council adopt a newly revised credit amounts to be incorporated into the Stormwater Utility Credit Manual; and

WHEREAS, the City Water Commission has recommended that the Council adopt the proposed Revised Stormwater Utility Credit Manual; and

WHEREAS, having considered the recommendation of the Water Commission and having read and considered the Staff Summary Report submitted in support of this Ordinance, the Council finds that adoption of the Credit Manual by this Ordinance is in the best interests of the citizens of the City of Flagstaff.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Chapter 12-02, *Stormwater Management Utility*, Section 12-02-002-0005 *STORMWATER MANAGEMENT UTILITY SERVICE CHARGE EXEMPTIONS AND CREDITS*, is hereby amended by adoption of the amendments set forth in that document known as the "*Revised Stormwater Utility Credit Manual*," declared a public record by Resolution No. 2015-17 and on file with the Clerk.

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections.

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date.

This ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this ____the day of _____, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Steve Camp, Regulatory Compliance Section Manager

Co-Submitter: James Boyer, Industrial User Supervisor

Date: 05/27/2015

Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution No. 2015-18 and Ordinance No. 2015-09: A resolution and ordinance of the Flagstaff City Council adopting by reference revised sewer discharge limitations. ***(Updates and revisions to local limits for industrial sewer discharge)***

RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2015-18
- 2) Read Ordinance No. 2015-09 by title only for the final time
- 3) City Clerk reads Ordinance No. 2015-09 by title only for the final time (if approved above)
- 4) Adopt Ordinance No. 2015-09

Executive Summary:

The City of Flagstaff code (7-02-001-0010) contains local industrial sewer discharge limitations (also known as Local Limits). The Federal EPA directs Publicly Owned Treatment Works (POTW) with a pretreatment program to re-evaluate and propose new local industrial sewer discharge limitations once every 5 years or when there is a change to the treatment process, as delineated by EPA 40 CFR 403. The Arizona Department of Environmental Quality (ADEQ) also recommended the City conduct a new local limits study. Flagstaff's last local limits study was completed and adopted into code in 2007. Additionally, the Wildcat Hill Wastewater Treatment Plant was upgraded and the treatment process was upgraded from a Class B to a Class A+ in 2009.

The City of Flagstaff Utilities Division, with consultation from GHD engineers, has conducted an update to our local limits to provide guidance in the development of new sewer discharge limitations on the wastewater pollutant loadings from our Significant Industrial Users (SIU). In addition to assessing pollutant loadings from SIUs, the local limits study also assessed the pollutant removal capabilities of the Rio De Flag Water Reclamation Plant and the Wildcat Hill Wastewater Treatment Plant.

The modifications to the City Code to change the sewer discharge limits local limits will serve to protect our wastewater collections and treatment systems from both physical harm, due to potentially damaging industrial wastewater, and from financial harm by keeping us in compliance with local, State, and Federal environmental regulations. Local discharge limitations provide the City of Flagstaff Utilities Division with the necessary enforcement mechanisms to adequately regulate our industrial businesses within Flagstaff.

City staff met with the significant industrial users that would be affected by the proposed sewer discharge limits in December, 2014. Each of the significant users was presented with a copy of the limit study and

staff has been available to answer any questions. A public notice was posted on the City of Flagstaff web page on March 31, 2015, to solicit comments on the proposed new sewer limits. Additionally, a public notice was posted in Arizona Daily Sun on April 5, 2015, to solicit public comments.

Financial Impact:

The update to the local industrial sewer discharge limitations in the City Code should not have a direct or indirect impact to the City or to the Industrial Waste Program.

Connection to Council Goal and/or Regional Plan:

2) Ensure Flagstaff has a long-term water supply for current and future needs; 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics; 7) Address key issues and processes related to the implementation of the Regional Plan; 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments; 9) Foster relationships and maintain economic development commitment to partners

Additionally, the Modification of Local Industrial Sewer Discharge Limitations will meet the following regional plan goals:

Chapter VI, WR.2.1, Develop and adopt an integrated water master plan that addresses water resources, water production and its distribution, wastewater collection and its treatment, and reclaimed water treatment and its distribution.

Chapter VI, Policy WR.2.2, maintain and develop facilities to provide reliable, safe, and cost-effective water, wastewater and reclaimed water services

Has There Been Previous Council Decision on This:

The last modification to the City Code to change the local industrial sewer discharge limitations was on March 20, 2007.

Options and Alternatives:

These options are also available for Council consideration. ADEQ has reviewed and approved the new proposed pretreatment limits.

1. The "do nothing" alternative: The City would be in violation of the EPA directive to re-evaluate and propose new local industrial sewer discharge limitations once every 5 years. This option would not require any change to the City Code.

2. Propose different pretreatment limits than those in the GHD study: This option would require a new study to be conducted by a consultant and to be reviewed by ADEQ and be vetted by the industrial pretreatment users. All would incur costs to the City.

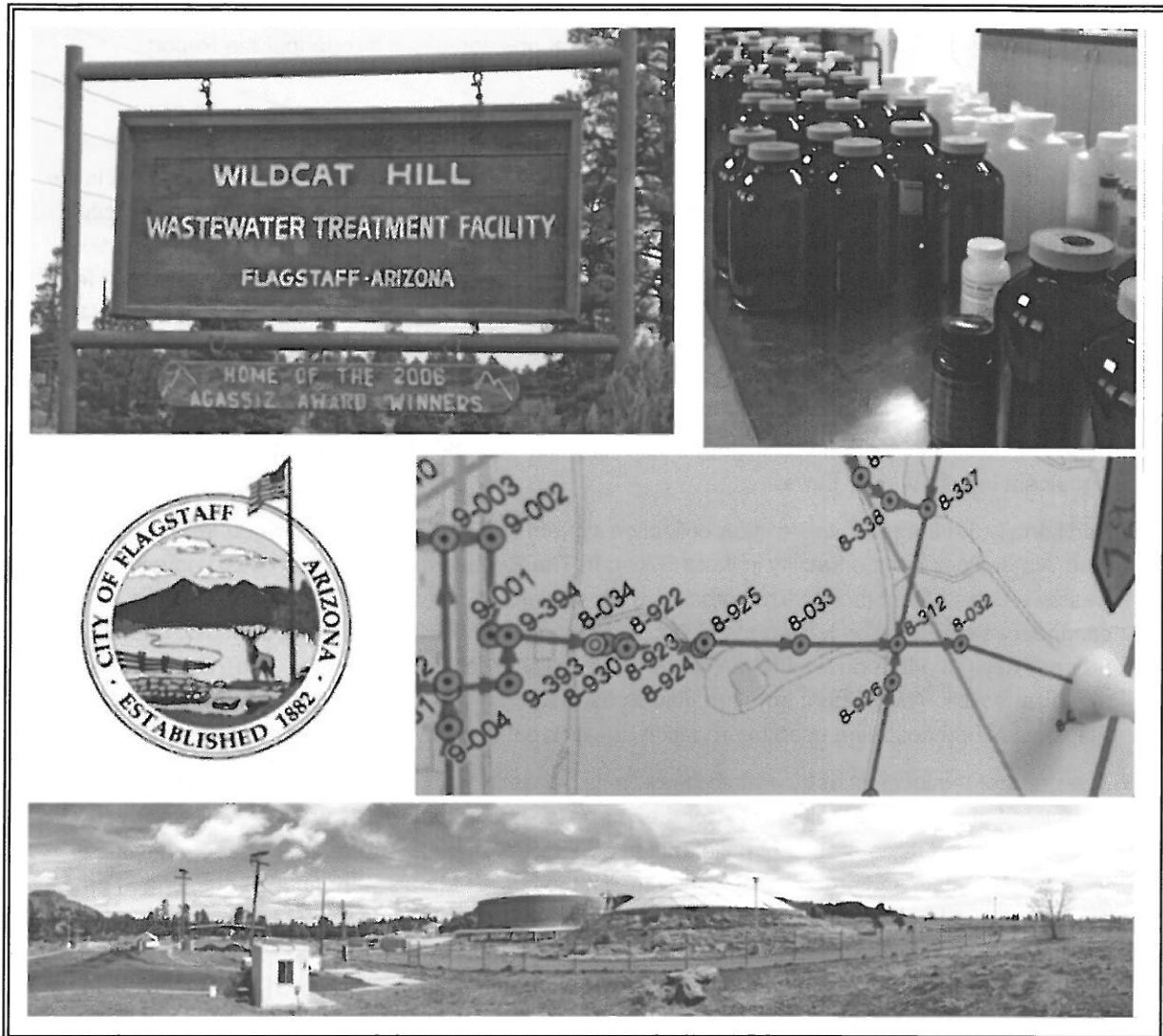
3. Adopt the City Code as approved by ADEQ, proposed and vetted by the industrial pretreatment users, to reflect the new local industrial sewer discharge limitations

Background/History:

The EPA recommends that a Publicly Owned Treatment Works (POTW) reevaluate its sewer discharge limits at least once every 5 years or when a significant change is made to the treatment or process components to ensure a firm technical basis and address changing conditions. The last change made to City Code to the local sewer discharge limitations for industrial users was on March 20, 2007. The City contracted GHD, Inc. to review the current limits and propose new limits. GHD proposed new limits that are reflected in the proposed City Code changes that are attached to this staff summary report.

Community Involvement:

Attachments: Executive Summary for new sewer discharge limitations for industrial users
 Power Point
 Res. 2015-18
 Ord. 2015-09



City of Flagstaff

Local Limits Study

Prepared for: The City of Flagstaff

Prepared by: GHD Inc.

January 2015



Executive Summary

This executive summary documents the Local Limits analysis completed for the City of Flagstaff Rio de Flag Water Reclamation Plant and the Wildcat Hill Wastewater Treatment Plant under the direction of the City of Flagstaff. This report is subject to, and must be read in conjunction with, the limitations set out in Section 1.2 and the assumptions and qualifications contained throughout the Report.

Background

The City of Flagstaff, Arizona depends on a wastewater treatment plant and a water reclamation facility to meet the communities wastewater treatment needs. The wastewater treatment plant is the Wildcat Hill WWTP, which can treat approximately 6 MGD of wastewater per day. This advanced treatment facility processes including screening, primary sedimentation, secondary sedimentation, Fixed-Film Activated Sludge process (IFAS), disinfection and filtration. The effluent discharged from the facility is used for irrigation in portions of the east area of the City or are discharged into the Rio de Flag River. Energy recovery is also implemented at the Wildcat Hill WWTP which converts methane gas generated from wastewater treatment processes to electricity to power equipment and reduce electrical power usage at the facility. The Wildcat Hill WWTP accepts wastewater flow from the City of Flagstaff Collection system that includes domestic, commercial, non-significant industrial and significant industrial user flows.

Additionally the Flagstaff wastewater collection system conveys sludge discharged from the Rio de Flag Water Reclamation Facility in west Flagstaff. The Rio de Flag WRP is a 4 MGD advanced wastewater treatment facility. That process uses screening, primary sedimentation, aeration, secondary sedimentation known at the Bardenpho process which is a two-stage anoxic and aerobic process designed to reduce nitrogen content in the wastewater. The process also includes filtration, and disinfection. The effluent from the plant is used for irrigation in west Flagstaff and parts of east Flagstaff. When not being used for irrigation, the effluent is discharged into the Rio de Flag.

The basis of the local industry pretreatment limits began in 1993 when the first major study was completed of the Wildcat Hill WWTP for that purpose. The original study was re-evaluated in 2002 which developed three groups of pollutants to be addressed in the pretreatment program, which included 1) Metals and organics with "interim" limit status, 2) Metals with "final" status, and 3) design parameters with "interim" status. Later the 2002 study was evaluated in 2006 to consider local environmental considerations and to add the Rio de Flag Water Reclamation Plant to the local limits analysis. The 2006 report specifically provided 1) a recommendation for nine (9) pollutants of concern, 2) confirmed the implementation of the final limits for chromium and zinc, and 3) evaluated the design capacity for BOD and TSS.

The current local limits are based on the recommendations in the 2006 study. Since the completion of that there have been changes to the wastewater treatment processes, the wastewater plants effluent limits, plus changes to the industries that discharge to the wastewater collection system. It was projected that the evaluation of such changes could result in the need for revisions to the current local limits for the purpose of mitigating interference or pass-through problems that discharges may have on the existing wastewater treatment facilities ability or capacity to treat wastewaters to required qualities for reuse or discharge.

This study considered both the Wildcat Hill WWTP and the Rio de Flag WRP with the goal to establish common local limits for all dischargers to the extent practical. This study followed the US EPA Local

Limits Development Guidance (2004) and other EPA pretreatment and local limits documents and literature.

Purpose

In accordance with the United States Federal Regulation, Title 40—Protection of Environment, Chapter 1 – Environmental Protection Agency (EPA), Subchapter N – Effluent Guidelines and Standards, Part 403 – General Pretreatment Regulations for Existing and New Sources of Pollution, (40 CFR 403) publically owned treatment works are required to develop an approved pretreatment program, and must develop and enforce local limits to protect against pass through and interference. The US EPA also recommends that each POTW re-evaluate its local limits at least every five years to ensure a firm technical basis and address changing conditions.

The City of Flagstaff Utilities Department aimed to update the local limits for discharges to the City's wastewater system based on that guidance and this evaluation will satisfy that recommendation by completing a re-evaluation of current conditions and providing revised or new recommendations for the City of Flagstaff Local Limits pretreatment program, based on current conditions and specific POTW considerations.

Additionally the local limits are a tool for the City to protect the health and safety of WWTP and collection system workers, and to protect the capital investments in the wastewater treatment facilities.

Local limits are typically applied to significant industrial users, permitted and regulated individually by a numerical local limit enforced by the City of Flagstaff Industrial Pretreatment Department. Additionally other control measures such as best management practices could be implemented in addition to, or in place of a numerical value, when a local limit is not effective at managing pollutant discharges to the WWTP. Such BMP could be applied system wide, or individually.

The objects of this evaluation were to 1) identify the pollutants of concern, 2) determine the maximum allowable headworks loading, 3) determine the allowable industrial load 4) determine the uniform pollutant discharge concentrations and 5) provide recommendations to update the local limits based on current conditions, and system needs anticipated in the next five years.

Pollutants of Concern

GHD identified thirty-three (33) Pollutants of Concern (POC's) by a comparison of pollutant concentrations revealed in sampling completed by GHD and from reporting of regulatory sampling in the collection system, at SIU's discharges and at the wastewater treatment facilities. The POC's were developed from a greater list of pollutants identified in the AZPDES and APP permit limits, national POC's, Arizona SWQS, Arizona AWQS, bio-solids limits, plant capacity limits, treatment or collection system inhibition limits, and fume toxicity and Explosivity considerations for treatment plant worker health and safety.

Recommended Local Limits Update

Based on the results of this study, GHD has technically developed recommendations for three types of local limits, including:

- "Final" local limits which are recommended to remain until the system is re-evaluated as a whole, tentatively during the next local limits update;
- "Interim" limits which are guiding limits while the POTW or City investigates other sources of pollutants and ways of controlling those sources; and



- “Alert” limit, which if a Significant Industrial User exceeds the alert limit, it is recommended that the POTW or City conduct an evaluation to determine if that discharge was having impact on the plant effluent quality, and if pass-through or interference was occurring and leading to compliance concerns at the POTW, then voluntary correction or enforcement action is recommended.

The updated recommended local limits based on the content of the study are presented in the table below.

Recommended Local Limits Update Summary

		Exist. Local Limit	Recommended Local Limit	Status
POC No.	Inorganics			
1	Arsenic	0.26 mg/L	0.31 mg/L	final
2	Barium	-	-	-
3	Cadmium	-	-	-
4	Chromium, total	-	-	-
5	Chromium, VI	-	-	-
6	Copper	0.28 mg/L	0.15 mg/L	final
7	Cyanide	0.24 mg/L	-	-
8	Lead	0.041 mg/L	-	-
9	Molybdenum	-	-	-
10	Mercury	0.017 mg/L	BMP	interim
11	Nickel	-	-	-
12	Selenium	-	0.015 mg/L	final
13	Silver	0.3 mg/L	-	-
14	Sulfides	-	4.5 mg/L	final
15	Zinc	1.4 mg/L	-	-
16	HEM [a]	-	(152 mg/L) *(Qmax)=Load lb/day	interim
Volatile Organic Compounds (VOCs)				
17	Methylene chloride	0.0041 mg/L	4.1 mg/L	final
18	Toluene	4.2 mg/L	0.14 mg/L	final
19	Benzene	0.35 mg/L	0.102 mg/L	final
20	Total Trihalomethanes	-	0.32 mg/L	alert
21	Bromodichloromethane	-	0.08 mg/L	alert
22	bromoform	-	0.08 mg/L	alert
23	Chloroform	-	0.08 mg/L	alert
24	dibromochloromethane	-	0.08 mg/L	alert
25	Bromide	-	0.05 mg/L	alert
Semi-volatile Organic Compounds (SVOCs)				
26	Bis(2-ethylhexyl) phthalate (DEHP)	-	-	-
Pesticides				
27	Aldrin	-	Prohibited	Prohibited
Compatible Pollutants				
28	BOD	1,000 mg/L Surcharges if > 400 mg/L	-	-
29	TSS	1,200 mg/L Surcharges if > 400 mg/L	-	-
30	Ammonia	-	-	-
31	Nitrate	-	-	-
32	Total nitrogen	-	173 mg/L	final
33	pH	-	6.5 < pH > 11.0	final

[a] Qmax = the maximum daily flow for each specific SIU, as permitted by IWS



Local Limits Study

City of Flagstaff Industrial Waste Program and GHD Inc.

James Boyer (928) 213-2117 - jboyer@flagstaffaz.gov

Frederick Tack, P.E. (602) 216-7201 - frederick.tack@ghd.com

Purpose

Why? - *Protection*

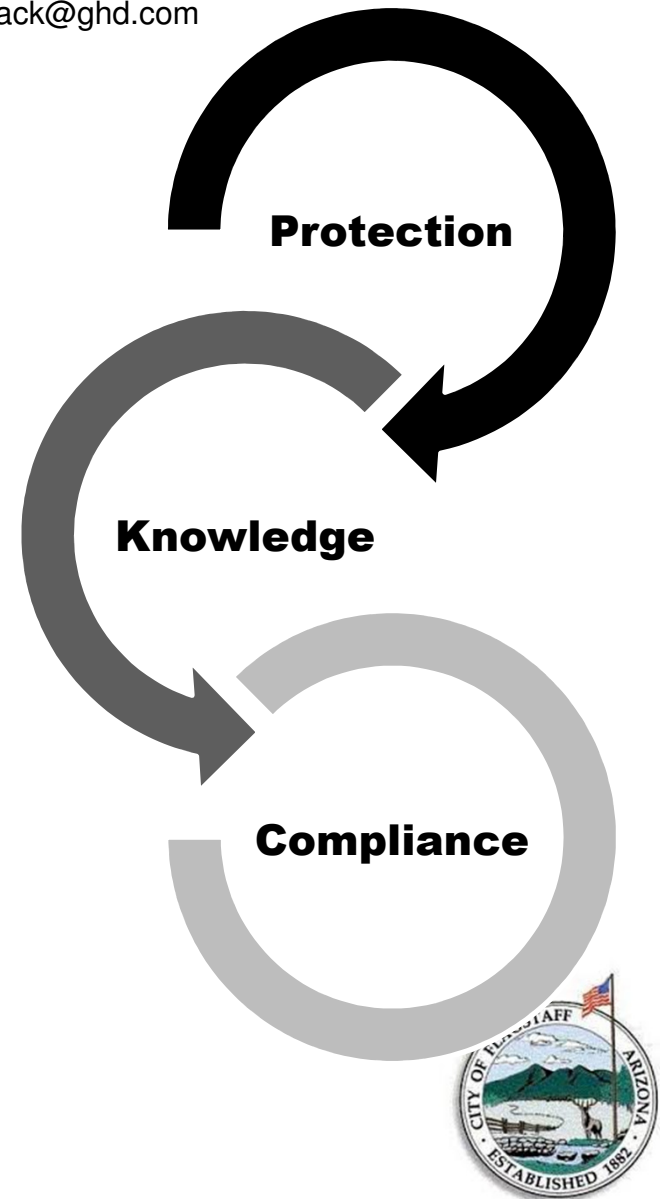
- (40 CFR 403) ...requires local limits to be re-evaluated at least every 5-yrs.
- Changes
 - Permits, technology & discharges

How? - *Knowledge*

- Technical expertise
- Third party QA/QC
- Holistic Approach (Collection System, and WWTP)
- Integrated partner with the City staff

What? - *Compliance*

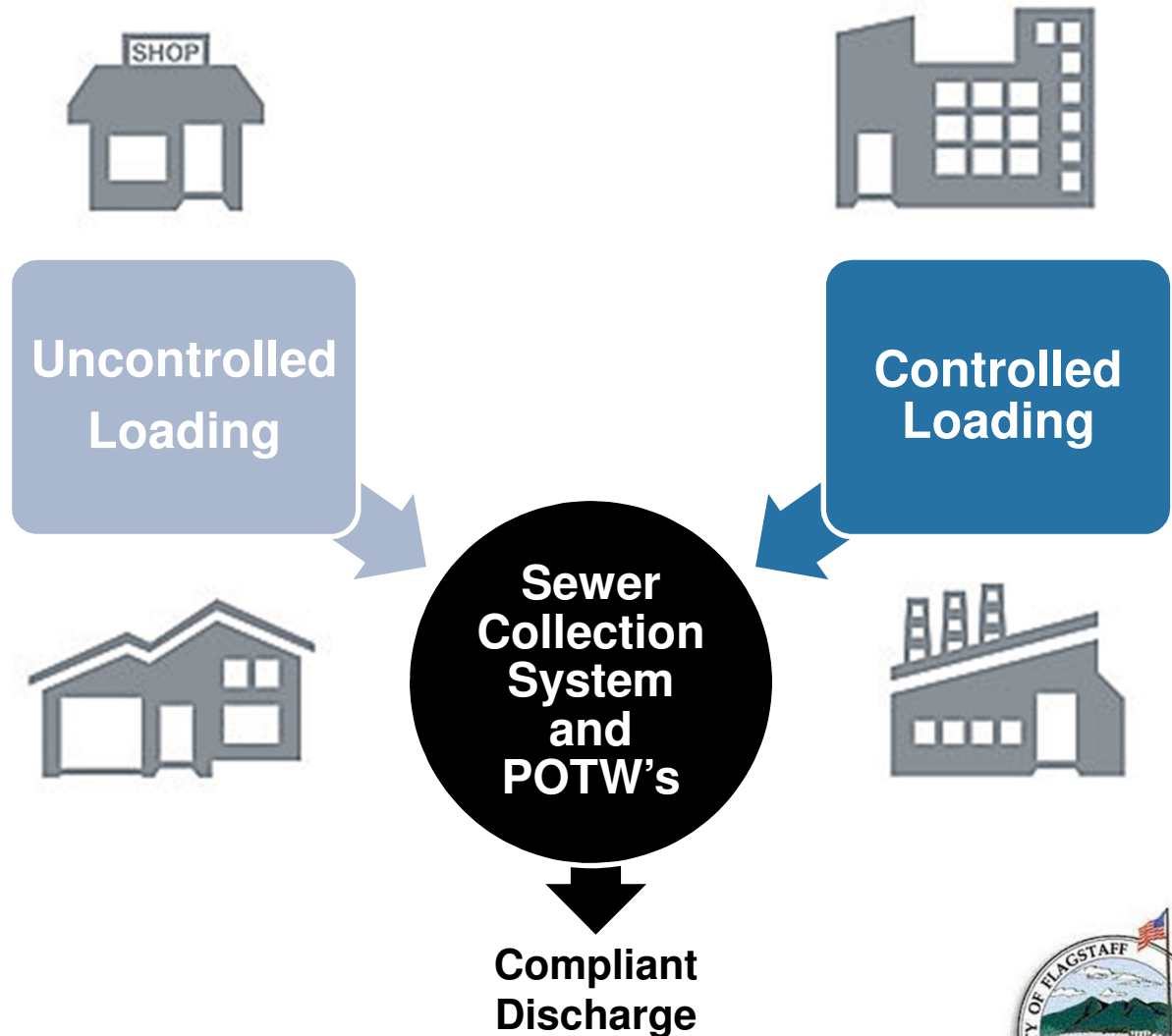
- Numerical Limits
- Best Management Practices (BMPs)
- Program Recommendations



Who is Included?

Analysis:

- Quantity and Quality of Discharges
- Wastewater Plant Removal Efficiencies
- Maximum Allowable Headworks Loading (MAHL)
- Evaluating the need for a limit



Recommended Local Limits

POC No.		Exist. Local Limit	Recommended Local Limit	Status	POC No.		Exist. Local Limit	Recommended Local Limit	Status
1	Arsenic	0.26 mg/L	0.31 mg/L	final	17	Methylene chloride	4.1 mg/L	4.1 mg/L	final
2	Barium	-	-	-	18	Toluene	4.2 mg/L	0.14 mg/L	final
3	Cadmium	-	-	-	19	Benzene	0.35 mg/L	0.102 mg/L	final
4	Chromium, total	-	-	-	20	Total Trihalomethanes	-	0.32 mg/L	alert
5	Chromium, VI	-	-	-	21	Bromodichloromethane	-	0.08 mg/L	alert
6	Copper	0.28 mg/L	0.15 mg/L	final	22	bromoform	-	0.08 mg/L	alert
7	Cyanide	0.24 mg/L	-	-	23	Chloroform	-	0.08 mg/L	alert
8	Lead	0.041 mg/L	-	-	24	dibromochloromethane	-	0.08 mg/L	alert
9	Molybdenum	-	-	-	25	Bromide	-	0.05 mg/L	alert
10	Mercury	0.017 mg/L	BMP	interim	27	Aldrin	-	Prohibited	Prohibited
11	Nickel	-	-	-	28	BOD	1,000 mg/L Surcharges if > 400 mg/L	-	-
12	Selenium	-	0.015 mg/L	final	29	TSS	1,200 mg/L Surcharges if > 400 mg/L	-	-
13	Silver	0.3 mg/L	-	-	30	Ammonia	-	-	-
14	Sulfides	-	4.5 mg/L	final	31	Nitrate	-	-	-
15	Zinc	1.4 mg/L	-	-	32	Total nitrogen		173 mg/L	final
16	HEM [a]	-	(152 mg/L) * (Qmax) = Load lb/day	interim	33	pH		6.5 < pH > 11.0	final



Questions?

Summary

James Boyer (928) 213-2117 - jboyer@flagstaffaz.gov

Frederick Tack, P.E. (602) 216-7201 - frederick.tack@ghd.com



RESOLUTION NO. 2015-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK ENTITLED THE "*REVISED DISCHARGE LIMITATIONS FOR INDUSTRIAL USERS*" AND DECLARING AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provision of the City Code by reference to a public record, providing that the adopting ordinance is published in full.

ENACTMENTS:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:
SECTION 1.

That certain document known as "*REVISED DISCHARGE LIMITATIONS FOR INDUSTRIAL USERS*", attached hereto as Exhibit A, three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

SECTION 2.

This resolution shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this _____ day of _____, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

.....

Exhibit A

REVISED DISCHARGE LIMITATIONS FOR INDUSTRIAL USERS CHAPTER 7-02 WASTEWATER REGULATIONS

7-02-001-0001 DIVISION CREATED

There is hereby created a Wastewater Services Section, to be under the supervision and control of the Director of Utilities ("Director"). The Director shall be charged with the care, operation and maintenance of the wastewater treatment and collection systems, and shall be responsible for the enforcement of all provisions contained in this Chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

(Ord. 2002-08, Amended, 07/16/2002)

7-02-001-0002 APPOINTMENT OF DIRECTOR OF UTILITIES:

For the proper administration of the water and wastewater services facilities, there shall be appointed by the City Manager a Director of Utilities.

7-02-001-0003 PURPOSE AND POLICY

These Wastewater Regulations set forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Flagstaff, Arizona ("City"), and enable the City to comply with all applicable State and Federal laws, including the CWA ([33](#) United States Code §§1251 et seq.) and the General Pretreatment Regulations (Title [40](#), Code of Federal Regulations, Part 403). The objectives of these Wastewater Regulations are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with their operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW without adequate treatment, into receiving waters, or that will otherwise be incompatible with the POTW;
- C. To protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- F. To enable the City to comply with its National Pollutant Discharge Elimination System Permit conditions, its sludge use and disposal requirements, and any other Federal or State laws to which the City's POTW is, or may become, subject. These Wastewater Regulations shall apply to all users of the City's POTW, and shall authorize the issuance of wastewater discharge permits; provide for effective monitoring, compliance, and enforcement procedures; establish administrative review procedures; establish user monitoring and reporting requirements; provide for the setting of fee rates and surcharges for the equitable distribution of costs resulting from the proper maintenance and operation of the City's POTW; and provide for the assessment of civil and criminal penalties for Wastewater Regulation violations.

(Ord. 2002-08, Add, 07/16/2002)

7-02-001-0004 DEFINITIONS:

For the purpose of this Chapter, the following words and terms shall have the following meanings, unless the context indicates otherwise:

ADEQ OR DEQ: The Arizona Department of Environmental Quality. (Ord. 1950, 08/05/97)

ALERT LIMIT: The level at which, if exceeded by a Significant Industrial User, it is recommended that the POTW or City conduct an evaluation to determine if that discharge had or is having impact on the plant effluent quality, and if pass-through or interference was or is occurring leading to compliance concerns at the POTW, then voluntary correction or enforcement action is recommended.

APPROVED LABORATORY PROCEDURES: The measurements, tests and analysis of the characteristics of water and wastes in accordance with analytical procedures as established in title [40](#), Code of Federal Regulations, Part 136 as revised.

AVERAGE QUALITY: The arithmetic average (weighted by flow value) of all the "daily determinations of concentration", as that term is defined herein, made during a calendar month.

BEST MANAGEMENT PRACTICES or BMPs: The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR §403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOD (biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty degrees (20o) centigrade, expressed in milligrams per liter.

BRANCH SEWER: An arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.

BUILDING CONNECTION: The connection to the public sewer and extension therefrom of the sewer to the property line in an alley or street, or to the easement line in an easement, whichever is applicable, depending on the location of the public sewer. (Ord. 1681, 12/4/90)

BUILDING OFFICIAL: The Chief Building Inspector, or authorized representative. (Ord. 1723, 4/7/92)

BUILDING SEWER: The service line from the building to the sewer main.

BYPASS: The intentional diversion of wastestreams from any portion of an Industrial User's facility

CATEGORICAL STANDARD: Limits for pollutants that are set by the EPA for individual types of industry listed in [40 CFR 403](#).

CFR: The Code of Federal Regulations, as amended.

CITY: City of Flagstaff. (Ord. 1104, 12-4-79)

CLEAN WATER ACT: The Federal Water Pollution Control Act., Public Law No. 92-500, § 2, 86 Stat. 816, as amended, also known as the "Clean Water Act," codified at [33 U.S.C. §§ 1251 - 1387](#). (Ord. 1950, 08/05/97)

COD (Chemical Oxygen Demand): The quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

COLLECTION SYSTEM: Any and all lines, manholes, or other mechanical or physical appurtenances which may be involved with the conveyance of wastewater to or from the City Wastewater Treatment Plant(s).

COMMISSION: A commission established by the City Council to review and make recommendations on the water and wastewater systems.

COOLING WATER: The clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling, or refrigeration.

DAILY COMPOSITE SAMPLE: A sample of effluent, discharge or other source of pollutants continuously collected, manually or automatically, over a normal operating day. Samples should be collected over at least an 8 hour period during production, but preferably over a 24 hour period, with one sample being drawn at least once every two hours. Composites should be flow proportional wherever feasible. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

DAILY DETERMINATION OF WASTEWATER QUALITY: For composite samples, "daily determination of wastewater quality" shall be the concentration of any parameter tested in a daily composite sample. For grab samples, the "daily determination of wastewater quality" shall be the arithmetic average (weighted by flow value) of the concentrations of any parameter in each grab sample obtained in any calendar day.

DIVISION: Utilities Division.

DEVELOPER: Any person engaged in the organizing and financing of a sewage collecting system within an area contributing to a branch, main or a trunk sewer of the City sewer system. Such may be either a subdivider or a legally constituted improvement district.

DIRECTOR: The Director of the Utilities Division of the City, unless otherwise designated. (Ord. 1950, 08/05/97)

Director of Finance or authorized deputy, agent, or representative shall have the authority to determine and collect all service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees. (Ord. 1723, 4/7/92)

DISCHARGE: The disposal of sewage, water or any liquid from any sewer user into the sewerage system.

DOMESTIC WASTE: A typical, residential-type waste which requires no pretreatment under the provisions of this Chapter before discharging into the sanitary sewer system, excluding all commercial, manufacturing and industrial wastes. (Ord. 1104, 12-4-79)

EFFLUENT: Wastewater or other liquid - raw, partially or completely treated - flowing from a basin, treatment process, or treatment plant.

EPA: United States Environmental Protection Agency. (Ord. 1236, 11-29-82)

FINAL: The Local Limits established by ordinance and to remain in effect until the system is re-evaluated as a whole, during the next local limits update.

GRAB SAMPLE: An individual sample of effluent, discharge or other source of pollutants collected in less than fifteen (15) minutes.

HAZARDOUS DISCHARGE: A discharge which is considered by the City to be an imminent hazard to health, the environment, or the POTW.

INDIRECT DISCHARGE: The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Clean Water Act as amended [33 USC 1251](#), et seq.

INDUSTRIAL USER: A source of indirect discharge.

INDUSTRIAL WASTE: Any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids excluding uncontaminated water.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT: The permit granted by the City to an industrial user granting the right to discharge to the sewer works subject to the terms and conditions set forth in the permit.

INFLOW: Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm waters, surface runoff, street wash waters or drainage.

INTERFERENCE: Inhibition or disruption of the sewer system, treatment processes or operations which contribute to a violation of any requirement of a national pollutant discharge elimination system permit. The term includes prevention of sewage sludge use or disposal by the cities in accordance with section 405 of the Act, or any critical guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the City.

INTERIM: Guiding limits while the POTW or City investigates other sources of pollutants and ways of controlling those sources.

LATERAL SEWER: A sewer which discharges into a branch or other sewer and has no other common tributary to it.

MAIN SEWER: A sewer which receives sewage from one or more branch sewers as tributaries.

MAINTENANCE: Keeping the treatment works in a state of repair, including expenditures necessary to maintain the capacity (capability) for which said works were designed and constructed. (Ord. 1950, 08/05/97)

NATURAL OUTLET: Any outlet into a watercourse, ditch, or other body of surface or ground water.

NPDES PERMIT: The permit or permits issued to and held by the City under the National Pollutant Discharge Elimination System, pursuant to [33 U.S.C. § 1342](#) and [40 CFR Parts 122 through 125](#). (Ord. 1950, 08/05/97)

PARAMETER: See "TREATMENT PARAMETER".

PASS THROUGH: An effluent flow which exits the POTW in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERMITTEE, PERMIT HOLDER: Any person, firm, association, corporation or trust which owns, operates, possesses or controls an establishment or plant being operated under a valid industrial waste permit to discharge waste into the City sewer system.

pH: The logarithm of reciprocal of the weight of hydrogen ions in grams per liter of solution.

POTW: Publicly owned treatment works.

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW, as further defined and described in [40 CFR 403.3\(q\)](#). (Ord. 1950, 08/05/97)

PRETREATMENT STANDARDS or PRETREATMENT REQUIREMENTS: Any substantive or procedural requirements relating to pretreatment, including the specific pollutant limits set forth in Section 0010 of this Chapter. (Ord. 1950, 08/05/97)

PUBLIC SEWER: A lateral, branch, main or trunk sewer controlled and maintained by the City of Flagstaff. (Ord. 1236, 11-29-82)

RECLAIMED WASTEWATER: The treated effluent, which is the product of the Municipal wastewater system, although not suitable for human consumption, may be used for certain industrial or commercial purposes. (Ord. 1723, 4/7/92)

REPLACEMENT: Those expenditures made for obtaining and installing equipment, accessories and/or appurtenances during the useful life of the treatment works which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.

REPRESENTATIVE SAMPLE: A sample which takes a portion of the user's discharge which will be indicative of all the constituents of the discharge.

SANITARY SEWER: A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which caused them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE/SEWERAGE: A combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT: Any arrangement of devices and structures used for treating sewage.

SEWER: A pipe or conduit for carrying sewage.

SEWER TAP: Includes hole cut into main line and saddle to which to connect. (Ord. 1681, 12/4/90)

SLUG LOAD: Any pollutant discharged in quantities large enough to cause interference, upset, or pass-through at the POTW.

STANDARD INDUSTRIAL CLASSIFICATION (SIC): A coded classification of industries based upon economic activity developed by the U.S. Department of Commerce as published in the Standard Industrial Classification Manual, 1987, Office of Management and Budget.

STANDARD METHODS: The procedure as described in the most current edition of Standard Methods for the Examination of Water and Wastewater published by the American Health Association, or the most current edition of Manual of Methods for Chemical Analysis of Water and Wastes published by the U. S. Environmental Protection Agency.

STORM SEWER or STORM DRAIN: A sewer which carries storm and surface waters and **STORM DRAIN:** drainage, but excludes sewage and polluted industrial wastes.

SURCHARGE: An additional charge levied against Industrial Users for exceeding certain thresholds of BOD or TSS, as described in § 0038.H and set forth in § 0039.A of this Chapter. (Ord. 1950, 08/05/97)

SUSPENDED SOLIDS (SS): Solids measured in milligrams per liter that either float on the surface of or are in suspension in water, wastewater or other liquids and which are largely removable by a laboratory filtration device, as defined in the "Standard Methods" as defined herein.

SYSTEM DESIGN CAPACITY: The design capacity for normal domestic wastewater as established by accepted engineering standards.

TREATMENT PARAMETER: A fundamental characteristic of sewage around which treatment is designed, such as, but not limited to, flow, BOD, and suspended solids.

TSS: Total suspended solids, expressed in milligrams per liter, in a user's discharge. (Ord. 1950, 08/05/97)

TRUNK SEWER: A sewer which receives sewage from many tributary main sewers and serves as an outlet for a large territory.

UPSET: An exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. This does not include noncompliance due to operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

U.S.C. The United States Code, as amended. (Ord. 1950, 08/05/97)

USER: Any person, lot, parcel of land, building, premises, Municipal corporation or other political subdivision that discharges, causes or permits the discharge of wastewater into the sewage system.

UTILITIES DIVISION: The Utilities Division of the City. (Ord. 1950, 08/05/97)

VOC (Volatile Organic Compounds): Those parameters included in EPA method 624/ 625.

WASTEWATER SYSTEM: All facilities for collection, pumping, treating, and disposing of sewage. As used in this Chapter the terms sewer system or wastewater system shall have the same meaning and definition.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 1236, 11-29-82)

(Ord. No. 1681, Amended, 12/04/90; Ord. No. 1693, Amended, 05/07/91; Ord. No. 1723, Amended, 04/07/92; Ord. No. 1950, Revised, 08/05/97)

7-02-001-0005 INTERFERENCE WITH THE UTILITIES DIVISION; DIGGING UP STREETS WITHOUT A PERMIT; TAMPERING WITH EQUIPMENT PROHIBITED:

Every person who shall in any way interfere with employees of the Utilities Division in any discharge of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the City, or the cleaning, laying, or connection of any such pipe or main or lateral, or who shall dig up or cause to be dug up, any street or alley in the City for the purpose of connecting with the sewer system of the City without first obtaining a permit from the City Engineer, or who, having a permit, shall dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City and shall fail or neglect to place the street or alley in its original condition, or who shall maliciously or wilfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Municipal sewer system shall be guilty of a petty offense. (Ord. 1104, 12-4-79)

7-02-001-0006 ALLOCATION OF RESPONSIBILITY FOR CLEANING, REPAIR AND REPLACEMENT OF BUILDING SEWERS AND CONNECTIONS:

- A. The property owner shall be responsible for the cleaning, unstopping, maintenance and repair of the sewer connection piping serving the owner's property from the owner's home or building to the public sewer main. (Ord. 1631, 8/1/89)
- B. Where the correction of a stoppage requires the repair or replacement of a damaged or broken section which is located off-property in a street or alley, the necessary repairs must be made by a licensed contractor, the scope of which licenses allows him to work within a public right of way subject to securing a right of way permit from the Engineering Section.

After repairs are made to a sewer connection in a concrete or asphalt street the street shall be cut, filled, and compacted to grade, the top lift being one foot of road base material approved by the City Engineering Section. Upon completion, the street shall be opened to traffic and the City Public Works Division contacted to repair the street.

When the repairs to a sewer connection are required under a sidewalk, curb or gutter, the sidewalk, curb or gutter shall be square cut to avoid unnecessary damage. After completion, the excavation shall be backfilled and compacted to grade and the City Public Works Division contacted to repair the sidewalk, curb or gutter.

If in the opinion of the City Utilities Director an unnecessary amount of street, sidewalk, or curb and gutter is damaged in the process of making the repair, the contractor shall be charged for the repair of that amount. (Ord. 1631, 8/1/89)

C.

1. If the property owner perceives the location of a sewer service problem to be the City's main sewer line, the property owner should contact the City's Utilities Director. (Ord. 1631, 8/1/89)
2. The City will cooperate with the property owner to locate the cause of a sewer service problem, including the performance of appropriate tests or inspections on the City's main line. If the location of the sewer service problem is identified to be in the property owner's service line, responsibility for the repairs pursuant to paragraph (A) above. The City will cease any repair efforts if responsibility for the repairs falls on the property owner pursuant to paragraph (A) above. (Ord. 1631, 8/1/89)
3. If the location is determined to be in the City's main line, the City will initiate the appropriate repair action.
4. If the location of the sewer problem cannot be identified, the City will proceed with the appropriate excavation to locate the cause of the problem. If the location of the problem is determined to be within the property owner's service line, responsibility for the repairs shall be pursuant to paragraph (A) above. In addition, the property owner shall reimburse the City for costs incurred by the City in performing the necessary excavation if responsibility for the repair is on the property owner pursuant to paragraph (A) above. If the location of the problem is within the City's main line, the City shall perform the appropriate repairs and the property owner shall bear no responsibility for the costs of excavation. (Ord. 1631, 8/1/89)

(Ord. No. 1631, Amended, 08/01/89)

7-02-001-0007 UNSANITARY DISPOSAL OF EXCREMENT PROHIBITED:

It shall be unlawful for any person to deposit, or permit to be deposited, in an unsanitary manner, upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste.

7-02-001-0008 TREATMENT OF POLLUTED WASTES REQUIRED:

It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided, in accordance with provisions of this Chapter. (Ord. 1104, 12-4-79)

7-02-001-0009 PROHIBITED SUBSTANCES:

- A. The Director of Utilities shall have the authority to regulate the volume and flow rate of discharge to the sewage works and to establish permissible limits of concentration for various specific substances, materials, or wastes that can be accepted into the sewage works, and to specify those substances, materials, waters or wastes that are prohibited from entering the sewage works. (Ord. 1693, 5/7/91)
- B. The following are prohibited from the City wastewater collection system:
 1. Any substance that interferes with the POTW or wastewater collection system.
 2. Any liquids, solids, or gases which by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the POTW from fire or explosion. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge to the POTW, be more than five percent (5%), nor any single reading over ten percent (10%), of the Lower Explosive Limit (LEL) of the meters. Prohibited materials include, but are not limited to: Gasoline, kerosene, naphtha, trichloroethylene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, wastestreams with a closed cup flash point of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in [40 CFR 261.21](#). (Ord. 1693, 5/7/91); (Ord. No. 2007-23, Amended 03/20/2007)

3. Any water which contains a solid or viscous substance which could obstruct the flow in the collection system or interfere with the POTW. (Ord. 1989, 1/19/99)
4. Any particles greater than one-half inch (1/2") in any dimension, animal tissues, manure, ashes, cinders, sand, metal, glass, straw, paper, wood, plastics, gas, tar, asphalt and grinding wastes. (Ord. 1896, 11/21/95)
5. Any substance that can cause corrosive damage to the POTW or collection system and any substance with a pH of less than 6.5 standard units (s.u.) or greater than 11.0 s.u. (Ord. 1958, 10/07/97)
6. Any liquid or vapor which causes the temperature entering the POTW to exceed one hundred four degrees (104o) Fahrenheit (40o C) or any liquid or vapor with a temperature greater than one hundred sixty degrees (160o) Fahrenheit (71o C). (Ord. 1693, 5-7-91)
7. Any toxic or radioactive substance in sufficient quantity to interfere with the POTW or collection system or to create a health or environmental hazard.
8. Any substance requiring unusual attention or expense of the City unless specifically authorized. Compensatory payments be determined by the City to be paid by the user who contributes any such authorized substance.
9. Any noxious or malodorous liquid, gas or solid which creates a public nuisance, health or environmental hazard, or inhibits entry into any part of the wastewater system for maintenance or monitoring.
10. Any water with a volume greater than twenty (20) GPM containing dyes, inks or other color-causing substances that change the typical color in the wastewater collection system.
11. Any substance causing a hazard to health or to the environment.
12. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that cause interference or pass through. (Ord. 1693, 5-7-91)
13. Any trucked or hauled pollutants, except at discharge points designated by the POTW. (Ord. 1693, 5-7-91)
14. Any combination of substances contributed by one or more users which results in any of the above situations.
15. The following pesticides are expressly prohibited from discharge into the City sewer system: 4,4'-DDD; 4,4'-DDE; 4,4'-DDT; and Heptachlor.

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1896, Amended, 01/08/96; Ord. No. 1896, Amended, 11/21/95; Ord. No. 1958, Amended, 10/07/97; Ord. No. 1989, Amended, 01/19/99); (Ord. 2002-08, Amended, 07/16/2002); (Ord. No. 2007-23, Amended 03/20/2007)

7-02-001-0010 STANDARDS FOR DISCHARGE:

- A. A technically-based determination of local Industrial User discharge limits for heavy metals, organics and other pollutants, for which there exists a specific discharge limit at the POTW, be made by the City Utility Director and EPA. Such determination shall take into account removal percentages of the POTW, and dilution factors. (Ord. 1693, 5/7/91)
- B. The following specific limits shall apply to all Industrial User discharges and may be modified, with prior notice to the Industrial user and an opportunity to respond, to comply with applicable State and/or Federal regulations. (Ord. 1693, 5-7-91)

Parameter Maximum	(mg/L)
<u>Inorganics</u>	
Lead	0.041
Copper	.15
Zinc	1.40
Mercury	0.017 BMP (interim)
Cyanide(Total)	.24
Arsenic	. .31
Silver	0.30
BOD	1,000.00
TSS	1,200.00
Selenium	.015
Sulfides	4.5
HEM [a]	(152 mg/L) *(Qmax)= lb/day Load (interim)
<u>Volatile Organic Compounds</u>	
Methylene Chloride	4.1
Toluene	.14
Benzene	.102
Total Trihalomethanes	.32 alert
Bromodichloromethane	.08 alert
Bromoform	.08 alert
Chloroform	.08 alert
Dibromochloromethane	.08
Bromide	.05
<u>Semivolatile Organic Compounds</u>	
Bis(2-ethylhexyl) phthalate(BEHP)	best management practices (BMP)
<u>Pesticides</u>	
Aldrin	Prohibited
<u>Conventional Pollutants</u>	
BOD	1000 mg/L (Surcharges If >400 mg/L)
TSS	1200 mg/L (Surcharges if > 450 mg/L)
Total Nitrogen	173 mg/L
pH	6.5 <pH> 11.0

(Ord. 1896, 11/21/95); (Ord. No. 2007-23, Amended 03/20/2007)

- C. The City may set limits based on mass measurements of pollutants for a particular substance or a particular user if it is necessary for adequate regulation. Discharge limits may be set in order to meet any limits set for sludge disposal.
- D. Industrial users meet the requirements of the U.S. Code of Federal Regulations, [40 CFR 403](#) and the amendments thereof. No discharge may exceed any Federal Categorical standard or cause the POTW to exceed its AZPDES Permit. The City may request approval to modify a Federal Categorical Standard, according to [40 CFR 403](#). (Ord. 1693, 5-7-91)
- E. Dilution may not be used to meet a standard or limit unless it is expressly authorized by the categorical standard set by the EPA or by the City. (Ord. 1693, 5/7/91)
- F. Bypass prohibition:
 - 1. Notice of bypass to occur
 - a. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Utilities Director, if possible, at least ten days before the date of the bypass.

- b. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Director of Utilities within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

2. Prohibition of bypass

Bypass is prohibited, and the Utilities Division may take enforcement action against an Industrial User for a bypass unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. there were no feasible alternatives to the bypass;
- c. the User submitted notices as required above.

G. O & M Requirements:

Industrial Users, required to install suitable pretreatment facilities to treat wastestreams which do not meet City discharge limits, shall provide necessary maintenance on such equipment to ensure their continued and efficient operation. Such facilities shall be attended by a person who has obtained certification as a wastewater operator by ADEQ at a level appropriate for the facilities being tended.

An Industrial violation of City discharge limits, which is due to operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, carelessness or improper operation will not be considered unintentional by the City of Flagstaff.

All Industrial Users shall maintain their general facilities in such a manner as to eliminate or minimize the possibility of discharge of substances by that industry, which are in violation of applicable Pretreatment Standards. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1896, Amended, 11/21/95; Ord. No. 1950, Revised, 08/05/97) (Ord. 2002-08, Amended, 07/16/2002); Ord. No. 2007-23, Amended 03/20/2007)

7-02-001-0011 INDUSTRIAL CLASSIFICATION:

- A. Each Industrial User shall be classified into one of the following categories as designated by the Code of Federal Regulations [40 CFR 403.3](#) (t) [1](#) & [2](#).

1. Significant - defined as any industry that:

- a. Is subject to categorical standards as defined by [40 CFR 403.6](#) and [40 CFR Chapter I, Subchapter N](#).
- b. Discharges an average process wastestream of 25,000 gallons per day (0.025mgd) or more to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater.)
- c. Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the POTW.
- d. Has a reasonable potential, in the opinion of the Utilities Director, to adversely affect the POTW's operation or for violating any pretreatment standard or requirement in accordance with [40 CFR 403.8](#) (f) (6) or this ordinance.

2. The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under §403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (i) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (ii) The Industrial User annually submits the certification statement required in §403.12(q) together with any additional information necessary to support the certification statement; and
 - (iii) The Industrial User never discharges any untreated concentrated wastewater.

3

- B. The City will notify all users of Federal and local requirements which may be applicable to them. Significant Industrial Users shall receive a copy of:
 1. This chapter
 2. Applicable parts of the U.S. Code of Federal Regulations
 3. An application for an Industrial Wastewater Discharge Permit
 4. Applicable Categorical Standards
 5. Any other pertinent materials
 - +6. Any changes in Federal or local requirements as they occur
- C. The Industrial User may request certification of its Industrial User Classification from the EPA according to [40 CFR 403.6](#) (a). The Industrial User may request variation from Federal Categorical Standards according to [40 CFR 403.13](#) and the Clean Water Act. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & ReEn, 05/07/91)

7-02-001-0012 INDUSTRIAL SELF-MONITORING:

- A. Significant Industrial Users, at the User's expense, must provide safe and convenient access for sampling by the City. A City approved manhole must be provided from which a sample that is representative of the total discharge can be taken. There must be unobstructed access to the open flow in the manhole so that a grab sample can be taken and so that sampling equipment can be set up in the manhole.
- B. Sampling and analysis must be performed by Significant Industrial Users, at their own expense, at least twice each year, in two separate quarters, (April -June and October - December), and results of such sampling submitted to the City before the last day of each respective quarter or as directed by the City. The City may perform such sampling for the Significant Industrial User if they so choose.

If any sample that is taken by the Industrial User or the City is not within the limits of this Chapter or the categorical standards, then the Industrial User, or the City if they so choose, shall repeat the

sampling within 30 days of becoming aware of the violation or more often if it is determined to be necessary by the City.

- C. A minimum of four (4) grab samples, pulled at least every two hours, must be used when sampling for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques, where feasible. The City may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Sampling must be performed for 5 consecutive days and be representative of the effluent being discharged on a typical production day, or as directed by the City.
- D. The flow must be measured by the Industrial User at the time that the sample is taken, according to [40 CFR 403.12](#) and section 7-2-43 of this Ordinance.
- E. The methods of sampling must be performed in accordance with [40 CFR 136](#) and any other applicable federal, state, or local requirements and the sampling location and type approved by the City. An authorized representative of the Industry (see section 7-2-14) shall sign and submit with these sample results, a statement verifying the validity of the methods and location.
- F. All records of sampling, analysis and flows must be kept by the Industrial User and the City for at least three (3) years. All records must be available to the City. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Enacted, 05/07/91)

7-02-001-0013 REPORTING REQUIREMENTS:

- A. Within 180 days of the promulgation by the EPA of a categorical standard or within 180 days of a final administrative decision, the Industrial Users that are subject to the standard must report the information provided for in [40 CFR 403.12](#) (b). This information must also be supplied by existing sources of discharge as well as new sources that discharge after the standards have been promulgated.
- B. All Industrial Users must immediately report to the Utilities Division or to the Wildcat Hill Wastewater Treatment Plant any discharge, including accidental discharge, which contains a slug load, a prohibited substance, or any substance which might be harmful to the POTW, the collection system, the environment or to any person.
- C. The Industrial User must provide a written report (separate from the immediate report) within five (5) days of the detection of the upset. The report must include the nature and volume of the discharge, the period of noncompliance including exact dates and time or if not corrected the anticipated time the upset is expected to continue, the action being taken by the Industrial User to correct the problem and preventive measures needed to avoid future spills.
- D. The Significant Industrial user shall report to the City immediately any significant changes in production, including, but not limited to, production rate, product, raw materials utilized, rate of discharge, concentration of pollutants being discharged, etc.
- E. If in the course of self-monitoring, a Categorical Industrial User becomes aware of a violation of their Categorical limits, they shall notify the City within 24 hours of becoming aware of such.
- F. If an Industrial User subject to reporting requirements of this section monitors any pollutant more frequently than required by the City, using the procedures prescribed in Section 7-2-12 of this Chapter, the results of this monitoring shall be submitted to the City also.
- G. All Industrial Users shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing and within 180 days of any discharge into the POTW

of a substance, which, if otherwise disposed of would be a hazardous waste under [40](#) CFR part [261](#) as required in [40](#) CFR [403.12](#)(p) (1) through (4). (Ord. 1693, 5/7/91)

(Ord. No. 1693, Enacted, 05/07/91)

7-02-001-0014 SIGNATORY REQUIREMENTS:

- A. The reports required by this Chapter must be signed as follows:
1. By a responsible corporate officer, if the Industrial User submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively.
 3. By a duly authorized representative of the individual designated in paragraph 1 of this section if:
 - a. The authorization is made in writing by the individual described in paragraph 1;
 - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - c. the written authorization is submitted to the City of Flagstaff, Utilities Division.
 4. If an authorization under paragraph 3 of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of paragraph 3 of this section must be submitted to the City of Flagstaff Utilities Division prior to or together with any reports to be signed by an authorized representative. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & Re En, 05/07/91)

7-02-001-0015 CONFIDENTIALITY OF BUSINESS INFORMATION:

- A. Any information, except effluent data as defined by [40](#) CFR [2.302](#), submitted to the City of Flagstaff pursuant to this Chapter, may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission by stamping the words "CONFIDENTIAL BUSINESS INFORMATION" on each page containing such information. If no claim is made at the time of submission, the City may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in [40](#) CFR Part [2](#) (Public Information).
- B. For the purposes of this section "effluent data" shall be defined as:

1. Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;
 2. information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and
 3. a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
- C. For the purposes of this section, the following shall be considered to be "effluent data" only to the extent necessary to allow the regulatory agency having jurisdiction to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow such regulatory authority to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:
1. Information concerning research, or the results of research, on any product, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and
 2. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & Re En, 05/07/91)

7-02-001-0016 INTERCEPTORS; TYPE, CAPACITY, LOCATION, MAINTENANCE

- A. A City approved interceptor is required for any business whose discharge can be determined by the City to interfere with the POTW or the wastewater collection system. If a blockage is found in the collection system and it can be determined by the City to be caused by a particular user's discharge, then the City can require the user to install a City approved interceptor, at the user's expense, to catch the substance causing the blockage. If any interceptor is determined by the City to be inadequate in size or design, the City may require the user to install or upgrade such interceptor at the user's expense.
- B. A City approved grease interceptor is required for any restaurant or other business that performs cooking. Grease interceptor sizing is to be as provided in the UNIFORM BUILDING CODE, APPENDIX H4 with the minimum size for such interceptors required for restaurants to be seventy (70) pounds. All piping from sinks, floor drains, kettles, dishwashing machines, etc. into which grease may be disposed must be connected through such interceptor. Grease interceptors may not be installed in any part of a building where food is handled. (Ord. 1876, 06/20/95)

An exemption of the minimum grease trap sizing will be considered for business based on type of food preparation that is done on site. This exemption must be approved by the Industrial Waste Division and the Utilities Director. The business must serve food that is commonly known to be low in potential grease generation and the waste stream discharge must produce less than 100 mg/1 of oil and grease as determined by the City. After an exemption is granted to a business, if the business changes food service, generates greater than 100 mg/1 of oil and grease, or causes an interference or blockage to the sewer collection system due to grease, the business will be required to install a properly sized grease trap in accordance with Flagstaff City Code, Section [7-02-001-0016\(A\)](#). (Ord. 1896, 11/21/95)

- C. A City approved oil interceptor is required for any business that performs automotive repairs or service. (See standard drawing for size and other specifications)
- D. A City approved lint interceptor is required for any business with six (6) or more residential size washing machines or any amount of industrial size washing machines. An industrial size washing machine is one that has a tub 3.5 cubic feet or larger and/or an American Household Appliance Manufacturers Association ("AHAMA") capacity of 25 pounds or more. Residential machines will be any washing machine with less capacity than industrial machines. (See standard drawing for lint interceptor size and other specifications.)
- E. A City approved sand interceptor is required for any business with facilities for washing vehicles. (See standard drawing for size and other specifications)
- F. All interceptors shall be of a type and capacity approved by the Director of Utilities and shall be located so as to be readily and easily accessible for cleaning and inspection.
- G. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers. When bolted covers are required they shall be gastight and watertight.
- H. Where installed, all interceptors shall be maintained by the owner and/or user at his or her own expense. The interceptor must be kept in continuously efficient operation at all times and a written record of maintenance performed on such interceptor shall be kept by the user on a form provided by the City.
- I. The City shall periodically inspect such interceptors and/or records to insure they are being kept in efficient operation. A cleaning schedule will be set by the City if it is necessary to prevent the entry of harmful substances into the collection system. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & Re En, 05/07/91; Ord. No. 1876, Amended, 06/20/95; Ord. No. 1896, Amended, 11/21/95)
(Ord. 2000-23, Amended, 10/03/2000)

7-02-001-0017 CONTROL MANHOLES:

When required by the Director of Utilities, the owner of any property served by a building sewer carrying potentially harmful or industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, measurement and sampling of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Director of Utilities. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Users whose effluent must be treated before it enters the wastewater collection system or whose effluent may potentially contain any prohibited substance may be required to install a control manhole for sampling purposes. The manhole must be located so that a representative sample can be taken and there must be unobstructed access to the open flow in the manhole so that a grab sample can be taken and so that sampling equipment can be set up in the manhole.

7-02-001-0018 RIGHT OF ENTRY FOR INSPECTIONS AND MONITORING:

- A. Any authorized employee of the City Utilities Division shall, upon presentation of his credentials, have free access at all reasonable hours to any commercial or industrial premises connected to or disposing of any type waste to the City wastewater system for the purpose of surveillance and/or an inspection of the premises to determine the nature and quantity of wastes discharged to the City wastewater system, or for examining or copying records, required by [40 CFR 403.12\(m\)](#). The Industrial User must make freely available to the City any and all records which would enable them to make an accurate determination of the constituents and flow of the User's wastestream. (Ord. 1693, 5-7-91)
- B. Servicemen, industrial waste inspectors, sanitary engineers, or other designated representatives of the Division, whose duty it may be to enter upon commercial or industrial premises to make inspections

and collect samples or measure the quantity of wastes discharged to the City sewer, shall be provided with credentials to identify them as authorized representatives for the Utilities Division. (Ord. 1693, 5-7-91)

- C. No person, except an authorized employee of the Utilities Division shall have or exhibit any credentials of that Division. It shall be the responsibility of each employee or authorized representative of the Division, upon resignation or dismissal, to deliver and surrender at the office of the Director of Utilities all credentials of the Division in his/her possession. (Ord. 1693, 5-7-91)
- D. Questionnaires will be provided to all new businesses entering the City of Flagstaff to gather information pertaining to waste that may be generated by such. If any waste other than domestic is discharged from such an establishment, the City may perform an inspection of such premises at least annually or more often as necessary to determine its status of compliance with this Chapter.
- E. The City of Flagstaff or it's designated representative shall have the authority to randomly sample Industrial User wastestreams and analyze for any pollutants that would be anticipated to be present for that particular user utilizing EPA approved methods. The City will review and analyze self-monitoring reports submitted by Industrial Users and make notification to such user of any compliance action to be taken as a result of such.
- F. The information from the City's inspection and monitoring activity will be available to the administrative authority of the State and/or EPA. This information will also be made available to the general public upon request with the exception of that information protected by Section [7-02-001-0015](#) of this Chapter. The City will maintain these records for a minimum of three years.
- G. The Industrial User shall be financially responsible for any sampling and analysis performed by the City which is not routine as provided for in this Chapter. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91)

7-02-001-0019 PROVISION OF FALSE INFORMATION

- A. Reports, documents, questionnaires or any other information provided to the city as required by this Chapter by a commercial or industrial user shall be subject to:
 - 1. The provisions of [18](#) U.S.C. section [1001](#) relating to fraud and false statements.
 - 2. The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification.
 - 3. The provisions of section 309(c) (6) of the Act regarding responsible corporate officers.
- B. Failure or refusal by the industrial user to provide information requested by the City as provided for in this Chapter will result in enforcement action being taken against such user. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & Re En, 05/07/91)

7-02-001-0020 PUBLIC NOTIFICATION, DEFINITION OF SIGNIFICANT VIOLATION

- A. The City shall give notice of any decisions being made about the pretreatment program which may interest the public, special interest groups, or government agencies. Information about the operation or requirements of the program will be given to any party which requests it. An advisory committee may be used for public information and input if there is an interest expressed in this.
- B. The City will publish in the largest local newspaper, at least once each year, a list of Industrial users who have not been in compliance with any substantial portion of this Chapter at any time during the previous year. For the purpose of this section, an Industrial User is in significant noncompliance if it's violation meets one or more of the following criteria:

1. Chronic violation of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
2. technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
3. any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
5. failure to meet within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
6. failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. failure to accurately report noncompliance;
8. any other violation or group of violations which City Utilities Director determines will adversely affect the efficient operation of the City Wastewater Treatment facilities or implementation of this Ordinance. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep & ReEn, 05/07/91)

7-02-001-0021 PROCEDURES FOR ENFORCEMENT

A. CITY ENFORCEMENT RESPONSE GUIDE

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall at a minimum:

1. describe how the POTW will investigate instances of noncompliance;
2. describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
3. identify by title, the official(s) responsible for each type of response.

The City shall provide notification of such plan to all Significant Industrial Users upon determination of their status and any other Industrial Users by request.

B. Notification of Violation.

1. Whenever the Director finds that a user is in violation of any provision of these Wastewater Regulations, any part of a wastewater discharge permit issued pursuant to these Wastewater

Regulations, or any order for corrective action or administrative order issued pursuant to these Wastewater Regulations, the Director shall serve or cause to be served upon such user, a written Notification of Violation (NOV). The NOV shall state the basis in fact for each alleged violation. The NOV may include, but shall not be limited to:

- a. An Order for Corrective Action;
- b. A schedule to attain compliance;
- c. An Order to Show Cause either in writing or in person;
- d. An Order to Cease Discharge;
- e. A suspension or revocation of the user's permit;
- f. An Order to Respond in Writing to the allegations.

Additional orders and changes to a suspension or revocation may follow the initial order at the discretion of the Director or as additional information becomes available.

- C. Response to Notification of Violation. The user shall respond to the NOV in writing to the Director within the specified time frame. In no instance shall an initial response to the NOV be due any later than ten days from receipt of the NOV by the user. The response shall be complete, containing all information and data required by the NOV.

If the response to the NOV requires an Order to Show Cause, the user shall respond by demonstrating why the Director should not ask the Flagstaff City Attorney to file a civil action in superior court requesting injunctive relief and penalties, or a criminal misdemeanor action in city court.

- D. Resolution of Notification of Violation. Upon review of a response to the NOV, the Director may accept the response as complete and satisfactory. If this is the case, the Director shall consider the issue regarding the NOV closed. The Director shall notify the user in writing regarding the closure of the NOV. The closure of the NOV shall not preclude further enforcement action.
- E. Deficient Response to Notification of Violation. Upon review of a response to the NOV, the Director may determine the response to be deficient. In the event of a deficient response, the Director may take, but shall not be limited to taking, the following actions: require the submittal of any non-submitted or incomplete information; suspend or revoke the user's permit; order the user to cease discharge; and/or seek any penalties applicable to the alleged violations.

F. COMPLIANCE SCHEDULE FOR INDUSTRIAL USERS

1. A compliance schedule will be set for Industrial Users that do not meet the standards of the Code of Federal Regulations, applicable state regulations or this Chapter. Final determination on compliance dates will be made by the City Utilities Director.
2. Industrial Users who do not agree to a compliance schedule with the City of Flagstaff may be subject to discontinuance of their water and/or sewer service as provided for in this chapter.

G. EFFECTS OF AN UPSET

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the Industrial User can demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the Industrial User can identify the specific cause(s) of the Upset;

2. the facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
3. the Industrial User has submitted the reports required in Section [7-02-001-0013](#) of this Chapter in a timely manner.

H. Judicial proceedings.

Initiation of Legal Action. Whenever the Director finds that a user has violated any of the provisions of these Wastewater Regulations, the Director may ask the Flagstaff City Attorney to take appropriate legal action. This legal action may include, but shall not be limited to, the following:

1. Prohibitive injunctions;
2. Mandatory injunctions for corrective action and cleanup;
3. Civil penalties pursuant to A.R.S. Section [49-391](#) and these Wastewater Regulations;
4. Criminal misdemeanor penalties pursuant to A.R.S. Section [9-240](#) (28), Section 13-802, and Section 13-707;
5. Recovery of damages from costs to the POTW.

I. Civil Penalties for Violation.

1. The civil penalties for violation of any specific pollutant limit set forth in these Wastewater Regulations, or in any permit issued pursuant to these Wastewater Regulations, shall not exceed twenty-five thousand dollars (\$25,000) for each violation. Each day that a specific pollutant limit exceedance occurs may constitute a separate violation.
2. The civil penalties for non-submittal of any reports, or for noncompliance with any reporting, sampling, monitoring, or documenting requirements set forth in these Wastewater Regulations, or in any permit issued pursuant to these Wastewater Regulations, shall not exceed one thousand dollars (\$1,000) for each business day (weekends and holidays excluded) that such non-submittal or noncompliance occurs.
3. The civil penalties for failure to maintain such equipment as may be necessary to conduct any wastewater self-monitoring required by these Wastewater Regulations, or by any permit issued pursuant to these Wastewater Regulations, shall not exceed five hundred dollars (\$500) per business day for each day that such failure continues; provided, however, that the Director may, in his sole discretion, waive any penalty under this Subsection 3 for any instance in which failure to maintain such equipment results in a violation for which the user is subject to a surcharge under Sections 0038.H and 0039.C and/or a penalty under Subsection 1 of this Section 0021 of these Wastewater Regulations.

J. DISCONTINUANCE OF SERVICE FOR INDUSTRIAL USER NONCOMPLIANCE

1. For hazardous discharges: The violation of any section of this Chapter shall be sufficient cause for the City to discontinue, after informal notice (phone call), water or sewer service to any premise that appears to present an imminent endangerment to the health and welfare of persons or the POTW.
2. For instances of noncompliance other than hazardous discharges: The City will provide written notice to the Industrial User, by certified, return receipt requested mail, at least 24 hours in advance and provide the industry with an opportunity to respond before proceeding with discontinuance of water or sewer service.

3. Such service shall not be restored until the violations have been discontinued or eliminated and the City may undertake any legal proceedings as may be necessary to halt, enjoin or punish the illegal discharge.
4. The User shall be responsible for any expenses the City may incur as a result of handling or eliminating any illegal discharge, for reasonable attorney's fees or for any damages resulting from such discharge. (Ord. 1693, 5-7-91)

K. PAYMENT OF SURCHARGES AND PENALTIES

All surcharges and penalties levied under this Chapter shall be due and payable in the same manner and within the same time as other charges under this Chapter in accordance with Section 0045 hereof.

L. AUTHORITY TO DISREGARD SAMPLES

In any circumstance in which clear and convincing evidence demonstrates, to the satisfaction of the Director, that one or more effluent samples or analyses thereof taken or performed by or for an Industrial User, as required by Section 0012 of this Chapter and/or such User's wastewater discharge permit or compliance schedule, is not accurate or representative of such User's discharge, then the Director or his designee may, but shall not be required to, disregard such sample(s) or analysi(e)s for purposes of determining any surcharge or penalty imposed by this Chapter, provided that such action by the Director (or designee) does not contravene any state or federal law, rule or regulation. The foregoing authorization of the Director to disregard samples or analyses shall (1) create no independent right in any Industrial User, and (2) be exercised, if at all, in the sole discretion of the Director. Any determination made by the Director hereunder shall be final.

M. AUTHORITY TO CREDIT PRETREATMENT EXPENDITURES

Notwithstanding any other provision of this Chapter, the Director may, but shall not be required to, allow a credit against, or grant a rebate of, any surcharge or penalty imposed under this Chapter for violation of any pretreatment standards, for up to sixty percent (60%) of such substantiated expenditures made within one (1) year of such violation for improvement of the Industrial User's pretreatment facilities as the Director, in his sole discretion, shall determine as appropriate and likely to correct or ameliorate the violation giving rise to such surcharge or penalty. The foregoing authorization of the Director to credit pretreatment expenditures or grant rebates therefor shall:

1. not apply to any surcharge or penalty resulting from a violation of pretreatment standards that causes
 - a. a pass-through or interference at the POTW,
 - b. a violation of any requirement of the POTW's NPDES permit, or
 - c. an endangerment of the health or safety of POTW personnel or the general public;
2. create no independent right in any Industrial User;
3. be exercised, if at all, only upon a written request of the Industrial User filed within one (1) year of the subject violation; and
4. be exercised, if at all, in the sole discretion of the Director (and/or the Water Commission, if the matter is appealed under Subsection (N) hereof). Any determination made by the Director hereunder shall be final, subject only to review and other disposition by the Water Commission, if the matter is appealed under Subsection (N) hereof.

N. PROTEST AND APPEAL OF PENALTIES AND SURCHARGES

1. An Industrial User may informally discuss any proposed surcharge or penalty with the Director at any time either before or after the assessment of the same, but any such informal

conference is not required for the Industrial User to file a protest and request for an appeal hereunder.

2. At any time within thirty (30) days of the assessment of any surcharge or penalty hereunder, the Industrial User against whom the same is assessed may contest the applicability or amount of such surcharge or penalty, by filing with the Director a written protest and request for a hearing for redetermination of the same, either with payment of the surcharge or penalty or separately. Notwithstanding the foregoing, such protest and request for redetermination may be filed at any time within forty-five (45) days of the effective date of this Ordinance with respect to any penalty or surcharge assessment occurring within six (6) months of such effective date.
3. An Industrial User may request one extension for filing a protest from the Director. Such request must be in writing, state the reasons for the requested delay and time of delay requested, and be filed with the Director within the period allowed above for originally filing a protest. The Director shall allow the extension to file a protest when such written request has been properly and timely made by the Industrial User, but no such extension shall exceed forty five (45) days beyond the time provided for originally filing a protest.
4. Any payment of surcharge or penalty hereunder not accompanied or preceded by a protest and request for hearing, or otherwise clearly designated as being paid under protest and followed by a timely-filed written protest, shall be accepted by the City and credited to the User as though not made under protest.
5. The Industrial User's protest shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of abatement or refund requested. The User's protest may be amended by written notice to the Director, or during the hearing, at any time prior to the time the User rests its case at the hearing. The Director shall be provided with a reasonable period of time to review and respond to the petition and any amendments thereto, which may require adjournment if amendments are made at the hearing.
6. The Director shall forward all timely received protests to the City's Water Commission within thirty (30) days of receipt. If the Water Commission shall determine that the User's protest is not in proper form, the Water Commission may, at its discretion, grant the User an extension of up to thirty (30) days to correct its protest.
7. All protests shall be heard by the City's Water Commission, according to its usual rules of procedure, and shall be continuous until the Water Commission closes the record. The User may be heard in person or by its authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Water Commission shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary business records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Water Commission shall be made solely upon substantial and reliable evidence presented with the User's protest or at the hearing. All expenses incurred in the hearing shall be paid by the party incurring the same.
8. In its determination of an appeal hereunder, the Water Commission may (but shall not be required to) rebate or refund any amount of surcharge and/or penalty imposed under this Chapter, in consideration of the User's pretreatment expenditures in accordance with Subsection (M) hereof or otherwise, as it shall decide would best serve the interests of equity and protection of public health and safety.
9. The Water Commission shall issue its ruling not later than forty-five (45) days after the close of the record thereon. Any refund of surcharges or penalties ordered by the Water Commission pursuant to a hearing hereunder shall be made within thirty (30) days of the

Water Commission's order therefor, or at such later date as the Water Commission shall provide in its order.

10. No filing of any protest, request or grant of any extension, or pendency of any hearing hereunder shall relieve any Industrial User of any payment or other obligation of the Industrial User resulting from any violation or alleged violation of any provision of this Chapter.

NOTE: City should not relieve, set aside, or redistribute an industry's penalty, fine, or surcharge, where it is imposed for actual violations of the City's ordinance. If the industry can show that the allegations against it are invalid, the penalty, fine, or surcharge could be dismissed.

(Ord. 1950, 08/05/97); (Ord. No. 1693, Rep & ReEn, 05/07/91; Ord. No. 1950, Revised, 08/05/97) (Ord. 2002-08, Amended, 07/16/2002)

7-02-001-0022 PUBLIC RECLAIMED WASTEWATER PIPELINE AND SEWER EXTENSIONS; APPROVAL BY CITY ENGINEER:

No public reclaimed wastewater pipeline or public sewer extension shall be made until the plans and specifications are approved by the City Engineer. Public reclaimed wastewater pipeline and public sewer extensions shall be constructed in accordance with standards and specifications as set forth in the City of Flagstaff General Construction Standards and Specifications. Such document is on file in the office of the City Engineer. (Ord. 1723, 4/7/92)
(Ord. No. 1723, Amended, 04/07/92)

7-02-001-0023 CONSTRUCTION AND OWNERSHIP OF PUBLIC RECLAIMED WASTEWATER PIPELINES, PUBLIC SEWER LINES AND OTHER EQUIPMENT MAINTAINED BY UTILITIES DIVISION

- A. In new subdivisions and developments where public sewers are authorized by the City, such public sewers shall be constructed at the developer's expense. Detailed plans and specifications for public sewer extensions must be approved by the City Engineer prior to construction. The engineering cost for the preparation of plans and specifications, the staking of the location of the new public sewers, the cost of inspecting the construction, the preparation of as-built plans and the cost of easements shall be assumed by the developer. The City will perform the inspection during construction at the developer's expense.
- B. The ownership of all public sewer lines, pumping stations, treatment facilities, and equipment and other appurtenances to the sewer system maintained, or accepted for maintenance by the Utilities Division shall be vested in the City, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in this Code.
- C. Where extensions of public reclaimed wastewater pipelines are authorized by the City, such pipelines shall be constructed at the reuser's expense. Detailed plans and specifications for public reclaimed wastewater pipeline extensions shall be approved by the City Engineer prior to construction. The engineering cost for the preparation of the plans and specifications, the staking of the location of the new reclaimed wastewater pipeline, the cost of inspecting the construction, the preparation of as-built plans and the cost of easements shall be assumed by the reuser. The City will perform the inspection during construction at the reuser's expense. (Ord. 1723, 4/7/92)
- D. The ownership of all public reclaimed wastewater pipelines, pumping stations, treatment facilities, equipment and other appurtenances to the reclaimed wastewater system maintained, or accepted for maintenance by the City shall be vested in the City, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in this Code (Ord. 1723, 4/7/92); (Ord. No. 1723, Amended, 04/07/92)

7-02-001-0024 PUBLIC RECLAIMED WATER PIPELINE EXTENSION AND CONVERSION POLICY FOR REUSERS

- A. Definitions: For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

REUSER: Any person or persons requesting or required to connect to the reclaimed water system of the City for any residential or nonresidential use, use where potable water quality is not required by City, State, or Federal Regulations.

POINT OF DELIVERY: A location designated by the City for acceptance and measuring of the reclaimed water by the reuser. The point of delivery shall include a vault, pit, meter, valves, and other appurtenances necessary to meter reclaimed water to the reuser.

RECLAIMED WATER AGREEMENT: A written agreement between the reclaimed water reuser and the Division for connection to an existing public reclaimed water pipeline, approved and executed in the name of the Division by the City's Utilities Director.

REIMBURSEMENT AGREEMENT FOR RECLAIMED WATER: A written agreement between the reclaimed water reuser and the City for reimbursement of the reuser's costs incurred in providing for the extension of, and connection to, a public reclaimed water pipeline, approved by the City Council and executed in the name of the City by the Mayor.

CONVERSION AGREEMENT FOR RECLAIMED WATER: A written agreement between the City and the reclaimed water reuser for reimbursement of the City's costs incurred in converting the reuser's potable water system to a reclaimed water system, by the extension of, and connection to, a public reclaimed water pipeline, approved by the City Council and executed in the name of the City by the Mayor.

- B. Plans and Specifications for Public Reclaimed Water Pipeline Extensions: A reuser who wishes to extend or install reclaimed water facilities must employ an engineer, registered in Arizona, to perform the field engineering and prepare detailed plans and specifications for the extension in accordance with good engineering practice, and adopted general construction standards and specifications of the City and regulations of the Arizona Department of Environmental Quality for the reuse of water. The final detailed plans and specifications for the reclaimed water pipeline extension shall be approved by the City Engineer before construction begins.
- C. Costs of Extensions and Conversions: The reuser causing an extension of a public reclaimed water pipeline, conversion of an existing irrigation system to reclaimed water, and the construction of the point of delivery shall pay in full for the rights of way and easements, the purchase, construction and installation of the reclaimed water pipeline, and all other costs of the extension and/or conversion. However, the City reserves the right to increase the diameter of the extension through cash or a reimbursement agreement.
- D. Recovery of Costs of Extensions and Conversions: Subject to City approval, reusers may recover costs incurred from converting an existing irrigation system to use reclaimed wastewater or from extending public reclaimed water pipelines in accordance with paragraph (c) of this Section. Recovery of costs shall be in the form of a rebate amounting to ten percent per year of said costs for a period of ten years. Rebates shall be paid to the reuser at the end of each full calendar year of reclaimed water usage. The total amount of the allowable costs to be recovered shall be agreed to prior to the reuser obtaining reclaimed water and shall be in the form of a written agreement between the City and the reuser. No interest shall be paid to the reuser on the costs being recovered.
- E. Replacement and/or Repair: All persons or other entities who create, cause to be built, or build any such extensions of services as contemplated herein or convert existing irrigation systems to use reclaimed water, shall also pay for any and all such replacements as becomes necessary as a direct or indirect result of the creation, building or construction of such extensions and/or conversions. For example, repairs or replacements of sidewalks, paving or other utilities damaged or disturbed during the building of reclaimed water pipeline extensions and/or conversions. Costs of said replacements and /or repairs may be included in the costs incurred from paragraph (D) of this Section.

- F. Reimbursement Agreement Between City and Reuser: Before the reuser incurs any costs in the extension of any public reclaimed water pipeline to provide service for any individual or property, the reuser desiring such service shall execute a Reimbursement Agreement for Reclaimed Water with the City which shall include the following:
1. A warranty of workmanship and materials for public reclaimed water pipelines and facilities installed which shall run to the benefit of the City for a period of at least one year from the date of acceptance by the city.
 2. A diagram of all property which will be served by the reclaimed water pipeline to be installed and an irrigation plan for the property.
 3. A statement that the City acquires ownership of public reclaimed water pipelines, appurtenances, and easements upon completion and acceptance by the City.
 4. The regulations for reuse of reclaimed water, quantity, quality, and cost of the reclaimed water.
 5. The terms for cost recovery by the reuser of reclaimed water pipeline extension and/or conversion costs if applicable.
- G. Conversion Agreement Between City and Reuser: Before the City incurs any costs in the extension of any public reclaimed water pipeline needed to convert a reuser's private, potable water system to a reclaimed water system, the City and the reuser shall execute a Conversion Agreement for Reclaimed Water. Conversion agreements are subject to City approval and limited to projects that provide a 'net present value' cost recovery to the City within ten (10) years. Net present value shall be determined by the estimated cost of the project and the current prime interest rate. Recovery of costs shall be in the form of billing for consumption of reclaimed water at 75% of the reuser's present potable water rate. Recovery of costs estimates shall be based on consumption history as determined by the City, or on an engineered estimate in the case of new sites. The availability of Conversion Agreements shall always be subject to budgetary constraint. Conversion Agreements shall include, but not necessarily be limited to, the following:
1. Place of Use
 2. Quality Standards
 3. Point of Delivery
 4. Commodity Rate
 5. Costs to City
 6. Costs to User
 7. Compliance with Regulations
 8. Commencement of Service
 9. Termination of Service
 10. Resale of Reclaimed Water
 11. Inspection
- H. Penalty: Any person who excavates or causes an extension to be made for the purpose of laying any reclaimed water pipeline in public streets, alleyways or upon the property of the City without first complying with the provisions hereof, shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than three hundred dollars (\$300.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. (Ord. 1723, 4/7/92)
- I. The City's Utilities Director shall approve, execute and enforce Reclaimed Water Agreements, for the purpose of expanding the reclaimed water program to all residential and nonresidential reusers located adjacent to existing public reclaimed water pipelines.
- J. Reclaimed Water Agreement Between the Division and the Reuser: Before connecting to an existing public reclaimed water pipeline, the reuser requesting such connection shall execute a Reclaimed Water Agreement with the Division which shall include, but not necessarily be limited to, the following:

1. Place of Use
2. Quality Standards
3. Point of Delivery
4. Commodity Rate
5. Costs to User
6. Compliance with Regulations
7. Commencement of Service
8. Termination of Service
9. Resale of Reclaimed Water
10. Inspection

(Ord. No. 1723, Rep&ReEn, 04/07/92) (Ord. 2002-07, Amended, 07/16/2002)

7-02-001-0025 MAIN SEWER EXTENSION POLICY FOR AREAS BEYOND PRESENT CITY TRUNK LINES

- A. Definitions: For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

DEVELOPER-OWNER: Any person or persons requesting or required to connect to the sewer system of the City in developing one or more parcels of land. The term includes subdividers, industrial developers, private property owners, companies and legally constituted improvement districts who improve or serve with sewers, platted or unplatted property.

CITY: The word "City" shall mean the City of Flagstaff in the County of Coconino and the State of Arizona, except as otherwise indicated.

SEWER LINES includes:

1. LATERAL SEWER: A sewer which discharges into a branch or other sewer and has not other common sewer tributary to it.
 2. BRANCH SEWER: An arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.
 3. MAIN SEWER: A sewer which receives sewage from one or more branch sewers as tributaries.
 4. TRUNK SEWER: A sewer which receives sewage from many tributary main sewers, and serves as an outlet for a large territory. (Ord. 1104, 1 2-4-79)
- B. Plans and Size of Sewer Line Extensions: A developer-owner who wishes to extend or install sewer facilities must employ an engineer, registered in Arizona, to perform the field engineering and prepare detailed plans and specifications for the sewer extension in accordance with good engineering practice, and adopted standards set forth in the Uniform Building Code (current adopted edition), Uniform Fire Code (current adopted edition), general construction standards and specifications of the City, current subdivision regulations, general land use plan currently adopted, and any applicable State health regulations and any applicable City code requirements or standards. The final detailed plans and specifications for the sewer extensions must be approved by the City Engineer before construction begins. (Ord. 1112, 2-4-80)
- C. Costs of Extension: The developer-owner causing an extension of sewer line shall pay in full for the rights of way and easements, the purchase, construction and installation of the sewer lines, and all other costs of extension. However, the City reserves the right to increase the diameter of the extension, if it is deemed advisable, and the City may participate in the oversizing costs, through cash or a reimbursement agreement.

- D. Replacement of Repair: All persons or other entities who create, cause to be built, or build any such extensions of any such services as contemplated herein, shall also pay for any and all such replacements as becomes necessary as a direct or indirect result of the creation, building or construction of such extensions. For example, repairs or replacement of sidewalks, paving or other utilities damaged or disturbed during the building of sewer line extensions. (Ord. 1104, 12-4-79)
- E. Agreement between City and Developer-Owner: Before the extension of any sewer line shall be made to serve a subdivision, platted or unplatted property, to provide service for any individual or unplatted property, the developer-owner desiring such service shall execute an agreement with the City which shall include the following: (Ord. 1112, 2-4-80)
1. A warranty of workmanship and materials for sewer lines and facilities installed which shall run to the benefit of the City for a period of at least one year from the date of acceptance by the City.
 2. A diagram of all property which may be served by any sewer line to be installed.
 3. A statement that the City acquires ownership of sewer line appurtenances and easements upon completion and acceptance of the work by the City.
 4. A statement of the developer-owner's proportionate share of the cost for previously installed sewer lines if any reimbursement agreements are in existence concerning the sewer line.
- F. Penalty: Repealed. (Ord. 1642, 11/7/89)

(Ord. No. 1642, Amended, 11/07/89)

7-02-001-0026 PRIVATE SEWERAGE SYSTEMS; CONSTRUCTION AND MAINTENANCE WITHIN THE CITY PROHIBITED GENERALLY

Except as provided in this Chapter, it shall be unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

7-02-001-0027 PRIVATE SEWERAGE SYSTEMS; WHEN PERMITTED, TO BE CONSTRUCTED AND MAINTAINED IN SANITARY MANNER

Where in a public sanitary sewer is not available within the City, or in any area under the jurisdiction of the City, the building sewer shall be connected to a private sewage disposal system, complying with the provisions and recommendations of the Arizona Department of Health Services and the sanitary code of the County Health Department. Such private sewage disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

7-02-001-0028 PRIVATE SEWERAGE SYSTEMS; DISCONTINUANCE

At such time as a public sewer becomes available to property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this Article and any septic tank, cesspool or similar private sewage disposal facilities shall be abandoned and filled with suitable material within ninety (90) days of the aforesaid connection.

7-02-001-0029 PRIVATE SEWERAGE SYSTEMS; AUTHORITY OF DIRECTOR OF HEALTH DEPARTMENT

No statement contained in the preceding two (2) sections shall be construed to interfere with any additional requirements that may be imposed by the Health Departments of the State and County.

7-02-001-0030 PERMIT REQUIRED

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Engineering Section.

7-02-001-0031 APPLICATION FOR BUILDING CONNECTION:

Each person desiring a building connection shall make application to the Finance Section. All applications for building connections to be constructed by Utilities Division shall be accompanied by the current fee for such work. (Ord. 1104, 12-4-79)

7-02-001-0032 DIRECTOR OF UTILITIES TO APPROVE DESIGN NUMBER, LOCATION, SIZE AND CONSTRUCTION OF BUILDING CONNECTIONS:

The design, number, location, manner of connection and size of all building connections shall be subject to the approval of the Utilities Director. The Division will install all building connections less than eight inches (8") in diameter, except as provided elsewhere in this Chapter. All building connections eight inches (8") in diameter or larger shall be installed by a private contractor at the property owner's expense. Building connections shall be installed on lateral branch and main sewers only, unless specifically authorized and approved by the Utilities Director. All building connections shall be constructed in accordance with standards and specifications on file in the Engineering Section. (Ord. 1112, 2-4-80)

7-02-001-0033 SPECIAL PROVISIONS FOR INSTALLING BUILDING CONNECTIONS IN NEW SUBDIVISIONS AND DEVELOPMENTS:

In new subdivisions or developments where public sewer extensions are authorized by the City and constructed at the developer's expense, the City may authorize the developer or his agent, if he so desires, to install building connections with "wyes" and connect the building sewers to the building connection under the following provisions: (Ord. 1104, 12-4-79)

- A. construction of the public sewer, building connections, and connections of the building sewers to the building connection shall be under the supervision of a registered engineer holding registration in the State, who shall submit "as built transparency plans", bearing the registered engineer's registration seal and number, to the Engineering Section. It shall be the duty of the developer to require that all building connections, serving lots in the development upon which no buildings are constructed, be effectively sealed until such time as buildings will be constructed on the lots left vacant. Such sealed connections shall be inspected and approved by the City Engineer before being backfilled and shall be designated for location on the "as built plans". The effective seal shall consist of a vitrified clay stopper inserted in the bell of the sewer extending to the property line from the public sewer; such stopper shall be jointed according to the standard details on file in the Engineering Section. (Ord. 1112, 2-4-80)
- B. Before any building sewer construction is commenced, plumbing permits must be obtained by the developer or his agent from the Building Official. (Ord. 1104, 12-4-79)
- C. When the "as built plans" are prepared by the Engineering Section, a record of the building connections will be made.

7-02-001-0034 RECORDS TO BE KEPT BY ENGINEERING SECTION

The Engineering Section shall keep a record of all building connections made, the purpose for which they are to be used. (Ord. 1112, 2-4-80)

7-02-001-0035 SEWER TAP FEE

Each person, firm or corporation requesting a sewer tap to be installed by the City shall pay the fee as hereby established:

Four inch (4") sewer tap \$ 275.00

Six inch (6") sewer tap \$275.00 (Ord. 1681, 12/4/90)

Procedures for Owner/Contractor:

Owner/contractor shall pay buy-in charges if applicable.

Owner/contractor shall obtain a permit from the Engineering Section and pay a permit fee before starting excavation,

When notified by the Flagstaff Blue Stake Center, City Utilities Division personnel will locate the sewer main for owner/contractor.

Owner/contractor excavates site and shores trench if necessary, shoring shall be determined by Utilities Division personnel.

Owner/contractor provides barricades, lights and traffic control as determined by the Engineering Inspector.

Wastewater collection personnel installs the saddle and makes the tap in the sewer main.

Owner/contractor installs building connection to the saddle and completes the connection.

Engineering Inspector inspects the owner/contractor's work and approves if work is completed satisfactorily.

Owner/contractor compacts and backfills trench, replaces pavement if necessary.

Final inspection is done by the Engineering Inspector.

Approval (permit sign-off) is made by the Engineering Inspector.

Owner/contractor shall not tap the main sewer at any time. (Ord. 1339, 11-20-84)

(Ord. No. 1681, Amended, 12/04/90)

7-02-001-0036 SEWER USER CHARGES

In order to provide for the protection of the public health, safety and welfare of the citizens of Flagstaff, a system of charges for sewerage use services is hereby established.

7-02-001-0037 THE COLLECTION OF USERS CHARGES SHALL BE UNDER THE DIRECTION OF THE CITY'S FINANCE DIRECTOR

The Finance Director is authorized to collect all user charges, industrial cost recovery charges and all other charges prescribed by this Chapter. (Ord. 1104, 12-4-79)

7-02-001-0038 RATE ESTABLISHMENT AND REVIEW PROCEDURE

- A. Rates established by ordinance of the City Council shall be based upon the City's determination of the cost of rendering sewerage services. The rates shall be established to provide for adequate funding for operation and maintenance of sewage works as required by the Environmental Protection Agency. The Council may also consider the funding of debt service, capital replacement, capital improvements and other costs through user charges.
- B. In addition to other pertinent factors deemed relevant by the City Council, the rate schedules adopted by the City Council may include the following cost factors:
 - 1. Appropriate indirect costs of the Division and other City divisions in rendering sewer related services such as purchasing, accounting, billing, administration, equipment maintenance, and other indirect costs.
 - 2. Annual debt service charge for the retirement of sanitary sewer bonds.
- C. Rate schedules shall distribute cost based upon the volume of wastewater discharged as well as BOD and SS of the wastewater discharged.
- D. The method to be used for determining user charges expressed in a formula is:

$$\text{Rate} = \frac{\text{Total Cost* of Flow}}{\text{Total Flow}} + \frac{\text{Total Cost* of BOD or COD}}{\text{Total BOD or COD}} + \frac{\text{Total Cost * of SS}}{\text{Total SS}}$$

User Charge = Rate X User's Units of Contribution

*Cost = Operation and Maintenance plus Replacement Cost

The basis for the units of contribution shall consider volume (as determined by water meters or estimates).

(Ord. 1554, 3/1/88)

- E. Financial Management System. The user charge system shall include an adequate financial management system that will accurately account for O&M revenues and expenditures associated with the treatment works. The accounting system must segregate O&M revenue and expenditure from other wastewater revenue and expenditures to assure adequate revenue to properly operate and maintain the treatment works. All revenues collected for operation and maintenance (including replacement) shall be deposited in a separate fund. This fund shall have two accounts, one for O&M and one for replacement. (Ord. 1554, 3/1/88)
- F. Notification. All users of the system shall be notified at least annually in conjunction with a regular billing for sewage service as to:
 - 1. The rate schedule in effect.
 - 2. The part of user charges attributable to wastewater treatment services.
- G. Inconsistent Agreements. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the City and users (including industrial users, special districts, other municipalities, or Federal agencies or installations) which are inconsistent with the requirements of section 204(b)(1))A) of the Clean Water Act and these regulations.
- H. Toxic Pollutants and Pollutants in Excess of Specified Limits. The user charge system shall provide that each user which discharges any toxic pollutants or others which cause an increase in the cost of managing the effluent or the sludge of the City's treatment works shall pay for such increased costs by the following formula:

Total Cost* of Any Pollutant
 Surcharge = Total of Any Pollutant
 *Cost = Operation and Maintenance Plus Replacement Costs (Ord. 1554, 3/1/88)
- I. Wastewater Treatment By-Products. All revenue from the sale of treatment related by-products shall be used to offset the cost of operation and maintenance. User charges shall be proportionally reduced for all users. Total annual revenues received from the sale of a by-product shall be credited to the treatment works O&M cost no later than the fiscal year immediately following their receipt. (Ord. 1554, 3/1/88)

(Ord. No. 1554, Amended, 03/01/88)

7-02-001-0039 SEWER USE CHARGES, CAPACITY CHARGES

The sewer user charges to be charged by the Finance Section to all users and to all others that have reasonable access to sewer mains is presented in the following schedule:
 The City Council may adjust these rate schedules as they deem necessary.

- A. Sewer User Charges:

MONTHLY RATE PER 1,000 GALLONS OF WATER CONSUMPTION

The following monthly service rate shall be charged for customers receiving City of Flagstaff sewer service inside the limits of the City of Flagstaff: Sewer charges are based water consumption. Flat rate charge (dollars/1,000 gallons) for residential based on winter quarter average water use. Other customer classes based on actual water use (dollars/1,000 gallons).

Sewer only service customers will be charged a monthly service fee and sewer usage charge based on estimated water consumption as approved by the Utilities Director. If the Director determines that adequate water meter information is not available for billing a residential customer as described above, then the customer will be charged the average monthly billing for that user class.

Customer Classes	Monthly Rate				
	1/1/11	1/1/12	1/1/13	1/1/14	1/1/15
Residential:					
Single-family	3.08	3.59	3.69	3.80	3.80
Multiple and mobile home (per unit)	3.08	3.59	3.69	3.80	3.80
Non-Residential:					
Car Washes	3.06	3.56	3.70	3.82	3.82
Laundromats	3.14	3.65	3.80	3.91	3.92
Commercial	3.22	3.75	3.90	4.01	4.02
Hotels, motels	4.32	5.03	5.21	5.37	5.38
Restaurants	5.20	6.05	6.27	6.45	6.46
Industrial Laundries	4.77	5.55	5.76	5.93	5.94
Manufacturing Plants	3.46	4.02	4.18	4.31	4.32
Pet Food Manufacturers	7.64	8.89	9.19	9.47	9.48
Soft Drink Bottlers	6.05	7.04	7.29	7.50	7.51
Ice Cream Cone Manufacturers	9.46	11.02	11.38	11.72	11.73
Northern Arizona University	2.79	3.24	3.37	3.48	3.48
Waste haulers (charge per 1,000 gallons)	80.00				
Restaurant grease (charge per 100 gallons)	11.00				
Other treatment plant sludge (charge per 100 gallons)	8.00				
Mud sump waste (charge per 100 gallons)	25.00				
Waste material delivered to the treatment plant at times other than 8:00 AM to 4:00 PM weekends or holidays shall be assessed an after hours fee of:	35.00				
Sewer surcharges:					
Biochemical Oxygen Demand - per pound concentrations over 300 milligrams per liter	\$.2703				
Suspended solids - per pound for concentrations over 350 milligrams per liter	\$.1343				

If a customer's discharge exceeds the BOD and TSS limit already included in the monthly rate calculation for that customer class listed above, then sewer surcharges may be added as a condition to the customer user permit, compliance agreement or administrative order.

BOD and TSS included in monthly rates for specific customer classes are as follows:

Customer Class	BOD mg/l	TSS mg/l
Car Washes	20	150
Laundromats	150	110
Commercial	200	175
Manufacturing	200	175
Pet Food Manufacturers	1800	1100
Soft Drink Bottlers	1800	400
Ice Cream Cone Manufacturers	9700	100

All customers served directly by the City and located outside the City limits shall pay at a rate of one hundred ten percent (110%) times the rate for the same classification of service inside the City.

In the case of one meter serving a user that has different classifications of business, the Utilities Director shall be authorized to adjust the rate per one thousand (1,000) gallons based upon the contribution of each classification.

The user shall be determined according to customer class (see rate schedule above). (Ord. 1849, 12/06/94)

B. Capacity Charges

1. A capacity charge, as prescribed below, shall be assessed upon:
 - a. initial connection to the municipal sewer system, or
 - b. any subsequent expansion or modification of the user's building or facility which results in an increased contribution to the sewer system from:
 - (i) for single or multi-family residential users, an increase in the number of residential units, or
 - (ii) for commercial or industrial users, an increase in the number of fixture units, or
 - (iii) for industrial users, any change in operations resulting in a 20% or greater increase in billable volume as measured on an annual basis, or
 - (iv) a change of use of the property whereby an increased volume of discharge to the sewer system occurs. (Ord. 1809, 06/15/93)
 - c. Size of water meter installed on the property.
 - d. Each additional water meter added will require additional sewer capacity fees unless specifically designated as a landscape meter.
2. The capacity charges for the various types of users are as follows:
 - a. Customer (capacity) Charge, dollars
 - b. Residential
 - c. Single family residential and townhomes (per unit):

(effective 1-1-07)	\$2,410
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(EFFECTIVE 7-1-12	\$3,126
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d. Multiple residential, condos & mobile home (per unit):

(effective 1-1-06	\$2,300
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(EFFECTIVE 1-1-12	\$3,126
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When a change of use occurs that increases the volume of discharge to the sewer system, regardless of whether a change in ownership has taken place, the capacity charge shall be based on the capacity charge for the new use less the existing capacity charge rate for the previous use. No refund shall be made in the case of reduced volume of discharge from a change of use. (Ord. 1809, 06/15/93)

Non-residential:

Meter size	(effective 1-1-07)	EFFECTIVE 7/1/12
5/8" or 3/4"	\$2,410.00	\$3,126.00
1"	\$4,300.00	\$5,210.00
1-1/2"	\$8,600.00	\$10,419.00
2"	\$8.80	\$16,671.00
3"		\$31,257.00
4"		\$52,095.00
6"		\$104,191.00
8"		\$166,705.00
10"		\$239,639.00

*gallon per day of estimated flow

Where the capacity charge is based on volume, said charge will initially be calculated based on an estimate of flowage to be submitted in writing by the customer and agreed upon by the City. The capacity charge will be adjusted based upon the volume of the highest consecutive 12 month period for the 36 months immediately following commencement of service for assessment of an additional capacity charge.

The Division shall review all industrial user accounts on an annual basis and assess an additional capacity charge when the annual average billable volume increased by 20% or more. The charge is calculated at the current volume less previously assessed capacity charge recalculated at then current rates.

Wastewater capacity associated with similar user classes may be transferred from one location to another with the approval of the Division. The location from which the wastewater capacity was transferred shall be without wastewater capacity until a subsequent purchaser of said location establishes a new capacity and fees for the new use. The transferor of the wastewater capacity is required to notify any subsequent purchaser of the property, which no longer has wastewater capacity, that such capacity does not exist. The City shall record an agreement between the transferor and the City with the County Recorder against the property without wastewater capacity rights. The agreement shall reference the legal description of the property without wastewater capacity and clearly indicate that wastewater capacity rights do not exist.

Exemption and Payment of Capacity Charges. Structures with a minimum of stem wall, and first floor existing on December 1, 1979, shall be exempt from the capacity charges. As of that

date, the capacity charge is immediately due and payable upon, receipt of an application for connection to the sewerage system.

If connection is made to the sewerage system without appropriate permit, the capacity charge is immediately due and payable upon the earliest date that such permit was required. No connection to the sewerage system shall be made without the proper permit and payment of the capacity charge except as provided below for installment payments. (Ord. 1796, 03/16/93)

C. Capacity Fee Installment Payments:

Capacity fees may be paid for by installment payments in accordance with the following conditions:

1. A capacity fee that totals an amount greater than \$150,000 may be paid as follows:
 - a. No less than 1/3 of the total capacity fee due is to be paid upon receipt of the application for connection to the sewerage system.
 - b. The balance due of the capacity fee is to be paid in equal monthly installments over no more than thirty-six (36) months to include an interest rate calculated to be the prime rate + 1/2% at the time of the application.
 - c. The customer agrees to secure the balance due to the City by a letter of credit drawn in favor of the City, or in any other form of security satisfactory to the City Manager, City attorney and Finance Director.
2. For industrial capacity fees greater than \$25,000 the City Council may consider reduced initial payments and/or extended time periods for payment. Consideration shall be based on the following criteria and other criteria the City Council may wish to include:
 - a. Economic impact
 - b. Community impact
 - c. Environmental impact
 - d. Desirability
 - e. Financial viability
3. Requests for reduced initial payments and/or extended time periods for the payment of industrial sewer capacity fees shall be made in writing to the City Utilities Director for consideration by the City Council. Requests shall address the aforementioned criteria and shall be subject to the following:
 - a. No less than \$25,000 of the total capacity fee is due to be paid upon receipt of the application for connection to the sewerage system.
 - b. The balance of the capacity fee shall be paid in equal monthly installments for a period of up to thirty years as requested by the industrial customer and approved by the City Council. A written agreement shall be executed between the City and the customer which shall include an interest rate as recommended by the City Manager and City Treasurer and approved by the City Council of the application.
 - c. The industrial customer agrees to secure the balance due to the City by a letter of credit drawn in favor of the City or in any form of security satisfactory to the City Treasurer.

D. Special Rules for Application of Surcharges

The following special rules shall pertain in applying the surcharges described in Section 0038.H of this Chapter and Subsection A of this Section 0039:

1. Biochemical Oxygen Demand
 - a. In the event that an Industrial User's wastewater shall exhibit concentrations of BOD exceeding 400mg/l, then the surcharge for concentrations from 400mg/l to 500mg/l shall be multiplied by two (2);
 - b. in the event that an Industrial User's wastewater shall exhibit concentrations of BOD exceeding 500mg/l, then the surcharge for concentrations from 400mg/l to 500mg/l shall be multiplied by two (2), and the surcharge for concentrations of BOD exceeding 500mg/l shall be multiplied by three (3).
2. Total Suspended Solids
 - a. In the event that an Industrial User's wastewater shall exhibit concentrations of TSS exceeding 450mg/l, then the surcharge for concentrations from 450mg/l to 550mg/l shall be multiplied by two (2);
 - b. In the event that an Industrial User's wastewater shall exhibit concentrations of TSS exceeding 550mg/l, then the surcharge for concentrations from 450mg/l to 550mg/l shall be multiplied by two (2), and the surcharge for concentrations of TSS exceeding 550mg/l shall be multiplied by three (3).
3. All surcharges imposed by this Chapter shall be based on the average of all sampling conducted during the applicable billing period over the total flow for such period. (Ord. 1981, 09/15/98)

(Ord. No. 1590, Amended, 11/1/88; Ord. No. 1681, Amended, 12/04/90; Ord. No. 1727, Amended, 12/03/91; Ord. No. 1796, Amended, 03/16/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1825, Amended, 12/07/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1849, Amended, 12/06/94; Ord. No. 1945, Amended, 05/20/97; Ord. No. 1944, Amended, 05/20/97; Ord. No. 1950, Revised, 08/05/97; Ord. No. 1981, Amended, 09/15/98) (Ord. 2002-05, Amended, 05/21/2002; Ord. 2000-24, Amended, 10/03/2000; Ord. 1999, Amended, 07/06/1999); Amended Ord. 2006-27 (11/07/2006); Ord. No. 2010-23, Amended 09/07/2010).

7-02-001-0040 SEPTIC TANK AND SCAVENGER WASTE HAULERS

- A. Authorized Waste Haulers: Only those persons or companies whose principal source of business is within Coconino County shall be authorized to discharge scavenger wastes into the sewerage system.
- B. Permit to Discharge: All authorized persons or companies, as defined in (A) above, wishing to discharge scavenger wastes into the sewerage system must first obtain a scavenger waste discharge permit from the Finance Director. Permit applications shall include information on the company ownership, locations, identification, license number of all trucks to be used for delivery of waste to City sewerage facilities and any other pertinent information as may be desired by the City. It shall also include truck capacity and other information pertinent to discharge to the sewerage system. Permit applications shall be signed by a responsible owner or manager of the company applying for permission to discharge. All waste haulage equipment operated by companies with permits shall be registered with the Finance Director and shall be identifiable by display of the license plate number. (Ord. 1693, 5-7-91)
 1. The permit provided for in this Section of the Chapter shall be issued by the Finance Director to all applicants who comply with the terms and conditions set forth in this Section upon the payment of a permit fee, as follows:
 - a. For each vehicle utilized for the transportation of wastes for disposal into the sewerage system: five dollars (\$5.00)

- b. The permit issued as provided for in this Section shall expire one year after the date of issue. It shall be the responsibility of the hauler to seek renewal of their permit annually, at least 30 days prior to the expiration date of the previous permit. (Ord. 1693, 5-7-91)
 - c. Revocation of permit: Noncompliance with any part of this Section or subsequent regulations shall subject the permit holder to revocation of permit to utilize the services of the City sewerage system for disposal of scavenger wastes. Reissuance of permit to discharge after revocation shall be at the discretion of the Utilities Director and may be subject to such conditions as he/she deems appropriate. (Ord. 1693, 5-7-91)
- C. Regulations: The Utilities Director may establish such regulations as are deemed necessary to control the discharge of scavenger wastes so as to prevent incidences of overloading, interference or pass-through at the Wastewater Treatment Plant and/or interference, damage, etc., to the wastewater collection systems. All discharges shall comply with the Prohibited Substances restrictions set forth in Section 7-02-001-09 of the Code. The Wastewater Treatment Plant does not accept hazardous waste as defined by the Resource Conservation and Recovery Act and the Code of Federal Regulations.
- D. Each load to be discharged into the City wastewater system, shall be manifested in a form and format provided by the City of Flagstaff.
- E. Provisions of Services: Normal wastes from septic tanks, sewage treatment plants, etc., may be discharged routinely. Permission to discharge other wastes that are not readily biodegradable or are not known to be compatible to the operations of wastewater treatment plants shall be refused. Special request must be made to the Utilities Director prior to discharge of any materials of questionable acceptability. Some specific reasons for refusal of service shall include:
 - 1. Material deleterious to treatment plant operation or operators such as oils, greases, gasoline, toxics, volatile solvents, sand, metallic particles, or paints.
 - 2. Materials which would cause unusual expense in handling and treatment (i.e. blood, etc.), unless prior arrangements have been made for the payment of additional cost of service.
 - 3. Materials which would inhibit the performance of the treatment plant such as acids, plating wastes, or toxic materials.
- F. Fees and Charges: Fees and charges for treatment of formal scavenger wastes shall be based on the costs of providing such services and on the expected overall average characteristics of such discharges, which shall be designated as five thousand four hundred (5,400) mg/l BOD and twelve thousand (12,000) mg/l SS. (Ord. 1693, 5-7-91)
- G. The waste hauler will be financially responsible for any damage to, or interference with the POTW, or for any expense to the City (including testing) caused by the discharge from the hauler. The waste hauler and/or generator will be charged for all expenses in monitoring and handling their discharge. (Ord. 1693, 5-7-91)
- H. Waste haulers may not discharge unless a plant operator is present and has approved the discharge. The operator may refuse to accept any discharge if it is suspected to contain wastes which are considered unacceptable to the City Wastewater Treatment facilities. (Ord. 1693, 5-7-91)
- I. The waste hauler shall have sampling outlets (approved by the City Utilities Division) on each truck for proper sampling of contents. (Ord. 1693, 5-7-91) The waste hauler shall be subject to random sampling/monitoring by the City.
- J. Waste haulers will position their trucks at the direction of the plant operator to prevent spills. Any traces of the hauler's discharge must be removed by the hauler immediately.

- K. The discharge of scavenger wastes shall be permitted only at the locations and during such hours as shall be established by the Utilities Director. The discharge of scavenger wastes to the sewerage system at any other location is forbidden.
- L. Septic Tank And Scavenger Waste Haulers shall be subject to the enforcement guides set forth in Section [7-02-001-0021](#) of the Code.
- M. Provision of false information by either the generator or the hauler shall also be considered a violation of this Code and subject to the provisions of Sections [7-02-001-0019](#) and [7-02-001-0021](#) of this Code.

(Ord. 2003-04, Amended, 04/04/2003)

7-02-001-0041 SEWER RATES TO BE ADDED TO WATER BILLS

All sewer user charges to be added to and collected with the bills as rendered for water by the Finance Section, and all of the rules and regulations promulgated by the Finance Section shall apply to, and be effective in, the collection of such sewer service charges.

7-02-001-0042 WHEN BILLS PAYABLE; DISCONNECTION OF SERVICE FOR FAILURE TO PAY; RECONNECTION FEE

All bills for sewer service shall be due and payable on the billing dates of the various districts, and if not paid within thirty (30) days thereafter will be considered delinquent and the sewer service may be discontinued without notice. In the event extraordinary costs are incurred by the City to discontinue the sewer service, such costs shall be paid by the customer before service is continued. (Ord. 1104, 12-4-79)

7-02-001-0043 DETERMINATION OF WASTEWATER QUANTITY AND BILLINGS:

NONRESIDENTIAL

- A. In the absence of suitable data to make a determination for non-residential users as to the amount of water discharged to the sewer system, the sewer user charge shall be based on the amount of water supplied to the premises. The Director of Utilities may require or permit the installation of acceptable additional water or sewer meters at such party's expense and in such a manner as to determine the quantity of water actually entering the sewer system, in which case, the quantity of water used to determine the sewer charge shall be the quantity of water actually entering the sewer system as so determined. The meter (or meters) must measure the total flow unless another method has been approved by the City. (Ord. 1693, 5-7-91)
- B. It shall be the responsibility of each user, who chooses or is required to perform the purchase and installation of such meters, to notify and gain approval of the City of Flagstaff Utilities Division. Upon initial written verification, by a qualified individual, that the meter has been installed and is functioning accurately and efficiently, the user assume daily operation and maintenance of such meters. (Ord. 1676, 10/2/90)

If at any time, the City of Flagstaff Utilities Division determines that such meter is insufficient for the purpose it is intended, whether because of inability to repair, increased discharge rate of wastestream, etc., the user shall replace the meter or have modifications performed to the existing meter, at the user's expense and in such a way that is considered satisfactory to the City Utility Director. (Ord. 1676, 10-2-90)
- C. All Significant Industrial Users, have a City-approved sewer flow meter or other City approved means of measuring their effluent. This meter be equipped to provide a permanent record of the flow measurements. All records of the flow be kept for a minimum of three (3) years and must be available to the City. (Ord. 1693, 5-7-91)

- D. It shall be the responsibility of all Industrial Users who are required or choose to install flow measurement devices to provide a security system which would provide the City with unrestricted access to such meter, yet at the same time provide protection from User access unauthorized by the City, tampering, vandalism, the elements or any other factor which may inhibit accurate flow measurement of the wastestream. (Ord. 1693, 5-7-91)
- E. The Industrial User shall keep their wastewater collection lines free from debris, turbulence or any other entity that may inhibit the accurate measurement of sewer flow. (Ord. 1693, 5-7-91)

RESIDENTIAL:

- A. Sewer user charge be based on the average monthly water billed to each customer during the preceding December, January, February and March and shall represent sewage flow for full-time residential customers. (Ord. 1590, 11-1-88)
- B. If the Director determines that adequate water meter information is not available for billing a residential customer as described above, then the customer be charged the average monthly billing for that user class. (Ord. 1590, 11-1-88)
- C. Upon approval of the Director, any individual user may, at his own expense and subject to the regulations of the Division, install a separate meter in order to determine the quantity of water actually entering the sewer system and future sewer charges shall be limited to that water actually entering the sewer system as so determined by the Director. (Ord. 1590, 11/01/88)
- D. If within 10 days of billing, a customer files a written complaint with the Director alleging that a significant portion of his water usage does not enter the sewer system, the Director, in accordance with written appeals procedure, provide an opportunity for the customer to present his supporting documentation to an employee designated by the Director to hear complaints. (Ord. 1590, 11/01/88) (Ord. No. 1590, Amended, 11/1/88; Ord. No. 1676, Amended, 10/02/90; Ord. No. 1693, Amended, 05/07/91)
- E. Upon approval of the Director, metered water usage may be used to determine the sewer use charge when it can be shown to be more accurate than using the average winter water usage. (Ord. 2003, 09/21/99)

(Ord. 2002-08, Amended, 07/16/2002; Ord. 2002-05, Amended, 05/21/2002; Ord. 2003, Amended, 09/21/1999)

7-02-001-0044 RESERVED FOR FUTURE USE

(Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0045 PAYMENT OF BILLS AND CHARGES:

- A. All notices sent out by the City regarding sewer user accounts, and all notices regarding any other matter pertaining to the user of the City sewer system shall be sent to the house and street number of such property. To insure proper delivery of notices, all errors in house numbers should be promptly reported to the Finance Section.
- B. The sewer account and bill shall distinguish the amount of the sewer user charge from any industrial cost recovery charge, if applicable.
- C. All rates and service charges are payable when rendered and shall be paid by the due date. If the total of such bill is not received by the City within five (5) days after the due date the consumer shall be charged an additional \$5.00 non-refundable late payment penalty fee. Consumers on a payment plan that has been approved by the Utilities Division may be exempted from the late payment penalty fee. All charges shall be considered delinquent thirty (30) days after bill date. If the total of such bill is not paid within ten (10) days after the date of delinquency (30 days from bill date), a notice may be placed at the service address notifying of the past due amount and service charge which must be paid within 24 hours. After 24 hours, the water or sewer service may be disconnected from the premises of the

delinquent consumer. The total amount of the bill due and any deposit, if such deposit is required, shall be collected before again providing sewer service or water service. Any closed, delinquent account requiring special collection effort may be assessed a delinquent collection charge to cover the additional cost as established by the Finance Director.

(Ord. 1849, 12/06/94)

- D. A consumer's water or sewer service may be disconnected for nonpayment of a bill for service rendered at a previous location served by the Finance Section, provided such bill is not paid within thirty (30) days after the unpaid bill has been presented to the consumer at his new location. (Ord. 1849, 12/06/94)
- E. Any expense caused to the City for the repair or replacement of damaged, stolen, tampered with or misused sewer or water facilities shall be charged against and collected from the person or persons who caused the expense.
- F. When a user of the water or sewer system has been notified of the amount of charges remaining due after the deduction of his security deposit, and payment for same has not been received, the Finance Director may assign the account to a bona fide collection agency. (Ord. 1849, 12/06/94)
- G. Before water or sewer service will be turned on to any premises all charges against the premises when due and payable to the City as required by this Chapter, or including any of the following items must have been paid; on account of labor supplied or materials furnished by the Utilities Division in the installation of service pipes connecting the premises with the City sewer mains, or for tapping the City sewer system; on account of water or sewer service previously supplied to the premises; whether used by the applicants or by some previous occupant of the premises; or on account of the assessment of any fine or penalty; or for turning water or sewer services off or on; or for repair or replacement of damaged, stolen or misused sewer works facilities.

(Ord. No. 1809, Amended, 06/15/93; Ord. No. 1809, Amended, 06/15/93; Ord. No. 1849, Amended, 12/06/94)

7-02-001-0046 NOTICE PRIOR TO DISCONNECT

Before discontinuing water or sewer service for non-payment of any sewer user charge, deposit or other assessment provided for in this Chapter, the Finance Director shall give written notice to the person, of the discontinuance and an opportunity to appear before the Finance Director or his designee on any disputed matter relative to the discontinuance of sewer service. (Ord. 1104, 12-4-79)

7-02-001-0047 SERVICE CONNECTIONS

Every separate building to be provided with sewer service shall have its own separate sewer service connection to the City sewer main, except that two (2) or more buildings located on the same lot or on contiguous lots under the same ownership or property known as a court, apartment house or block covering more than one lot, may be provided sewer service through the same connection as long as the single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises to replace the indirect connection. No person having sewer service shall provide sewer service to any other sewer user, whether gratuitously or for a charge. (Ord. 1873, 06/20/95)(Ord. No. 1873, Enacted, 06/20/95)

7-02-001-0048 RESERVED FOR FUTURE USE:

7-02-001-0049 PERMITS REQUIRED FOR INDUSTRIAL USERS:

All Significant Industrial Users, as defined by this Chapter, Section [7-02-001-0011](#) (A) (1.) shall obtain a permit for connection and discharge to the City's sewer system from the Director of Utilities. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91) (Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0050 INDUSTRIAL USER PERMITS

- A. The Significant Industrial User shall make application for such permit, at least ninety (90) days prior to commencement of discharge, on a form provided by the Director of Utilities. An applicant shall pay a fee as determined by the City of Flagstaff for each application and thereafter be issued an Industrial Wastewater Discharge Permit which shall be valid for a period of five (5) years from the date of issuance or less as determined by the Director of Utilities. (Ord. 1693, 5-7-91)

Industrial Wastewater Discharge Permit Fee

(Effective 1-1-07)	(Effective 1-1-08)	(Effective 1-1-09)	(Effective 1-1-10)
\$100 per year	\$150 per year	\$200 per year	\$250 per year

- B. Upon expiration of such permit, an applicant who holds a valid wastewater discharge permit and is in compliance with the terms and conditions established by this Chapter, shall file an application for renewal of an industrial wastewater discharge permit, at least ninety (90) days prior to the expiration date of the previous permit, together with the existing fee and, thereafter, shall be issued a renewed industrial wastewater discharge permit, which shall be valid for a period of five (5) years from the date of issuance of the renewal or less as determined by the Director of Utilities. (Ord. 1693, 5-7-91)
- C. The applicant shall submit the information contained in item (D) through (G) below and any other information requested by the City, at the time of submittal or the application will be rejected and the applicant required to resubmit with the appropriate fee. (Ord. 1693, 5-7-91)
- D. An applicant seeking an industrial wastewater discharge permit or renewal shall submit, as part of its application, the results of an analysis, compliant with Standard Methods, conducted by a laboratory certified by the State of Arizona Department of Health Services, of a representative daily composite sample of the effluent discharge from the applicant's plant. (Ord. 1693, 5-7-91)
- E. An applicant shall submit as part of its application for a permit, a discharge report which include, but not be limited to, the nature of process, volumes, rates of flow, production quantities, concentrations in the wastewater discharge and any other information that may be relevant to the generation of waste.
- F. An applicant, as part of its application for a permit, shall submit a plan showing the location and size of on-site sewers, sampling point, pretreatment facilities, City sewers and any other pertinent physical details.
- G. An applicant as part of its application for a permit shall list each product manufactured, the type, amount and rate of production and the chemical components and quantity of liquid or gaseous materials stored on-site, even though they may not normally be discharged into the sewer system.
- H. In the event a producer of industrial waste which is authorized to make a connection to the City sewer for industrial waste disposal under the provisions hereof is sold, leased, or its operation is assumed or taken over by another person, firm or corporation other than that named in the permit, a new application for a permit shall be made by the new owner, lessee or operator. No permit issued under the provisions hereof shall be assignable and a violation of this provision shall be grounds for summary suspensions or revocation of such permit by the Director of Utilities.
- I. It shall be a condition of the permit that the City may at any time test any of the wastes being discharged by the company or plant for quality or quantity. A duly authorized City representative may enter the permittee's premises at any time during business or operational hours for the purpose of inspecting plant operations to estimate quality or quantity of wastes.

- J. It shall be a condition of the permit that the permittee shall install facilities, approved by the City Engineer at the permittee's expense for the purpose of the City's representative inspecting, observing and sampling representative flows in accordance with Section [7-02-001-0017](#) of this Chapter. (Ord. 1693, 5-7-91)
- K. It shall be a condition of the permit that additional periodic reports as may be required by the Director of Utilities to properly monitor the discharge of the industrial wastes, be submitted to the Director of Utilities.
- L. Issuance of an industrial wastewater discharge permit shall not release the permit holder from the obligation to comply with all other provisions of this Chapter.
- M. The City may change the conditions of any permit from time to time as may be necessary in order to comply with requirements of Federal or State regulations. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91); (Ord. 2002-08, Amended, 07/16/2002); (Amended Ord. No. 2006-27; 11/07/2006)

7-02-001-0051 PERMITTEE REQUIREMENTS

- A. Each permittee shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Chapter. If such discharge may occur, permittee must report it to the Director of Utilities as described in Section [7-02-001-0013](#). (Ord. 1693, 5-7-91)
- B. In order that officers, agents and employees of permittees will be informed of the City's requirements, permittees shall make available to their employees copies of this Chapter together with such other wastewater information and notices which may be furnished by the City from time to time for the purposes of improving and making more effective water pollution control. A notice shall be furnished and permanently posted on the permittee's bulletin board advising officers, agents and employees who to call in case of an accidental discharge in excess of the limits authorized by the permit. (Ord. 1693, 5-7-91)
- C. Any possible connection or entry point for a hazardous and/or prohibited substance to the permittee's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substances. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Rep&ReEn, 05/07/91)

7-02-001-0052 RESERVED FOR FUTURE USE

7-02-001-0053 RESERVED FOR FUTURE USE

(Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0054 RESERVED FOR FUTURE USE

(Ord. 1236, 11-29-82)

7-02-001-0055 RESERVED FOR FUTURE USE

7-02-001-0056 RESERVED FOR FUTURE USE:

(Ord. 1236, 11-29-82)

(Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0057 RESERVED FOR FUTURE USE:

(Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0058 RESERVED FOR FUTURE USE

7-02-001-0059 SERVICE OUTSIDE CITY LIMITS

- A. For all places outside the corporate limits of the City not mentioned in this Chapter where sewer service is rendered by the City, and for which no rate is specifically fixed, the rate to be charged, including a connection charge, shall be as fixed by the City Council.
- B. City sewer service offered to users outside the City limits shall be offered by the City subject to compliance by the users with the terms of this Chapter.

(Ord. No. 1693, Repealed, 05/07/91)

7-02-001-0060 RESPONSIBILITY FOR ENFORCEMENT

- A. The City's Director of Utilities or authorized deputy, agent, or representatives shall have authority over all field operations of the City's wastewater treatment and collection system, including flow test measurements, quality of waste, service connections, line construction plus the operation and maintenance of all wastewater facilities. (Ord. 1723, 4/7/92) (Ord. 1950, 08/05/97)
- B. The City's Director of Finance or authorized deputy, agent, or representative shall have the authority to determine and collect all service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees. (Ord. 1723, 4/7/92) (Ord. 1950, 08/05/97)
- C. The rules and regulations of this Chapter are made for the benefit of the users of the City sewer system, for the protection of the sewer system, and to protect the quality of the effluent of the sewage treatment plants. Their enforcement shall in no case be willfully ignored by any City official or employee. (Ord. 1693, 5/7/91)

(Ord. No. 1693, Amended, 05/07/91; Ord. No. 1950, Revised, 08/05/97)

7-02-001-0061 DISCONNECTION OF SERVICE

The violation of any section of this Chapter shall be sufficient cause for the City to discontinue water or sewer service to any premises, and such service shall not be restored until such violations have been discontinued or eliminated and all outstanding charges paid. The discontinuance of sewer service shall be accomplished by physically cutting and blocking the building connection. A charge for disconnecting and reconnecting shall be paid to the Finance Section for reconnecting the sewer service. (Ord. 1693, 5-7-91)

(Ord. No. 1693, Amended, 05/07/91)

7-02-001-0062 RESERVED FOR FUTURE USE

(Ord. 2002-08, Repealed and Replaced, 07/16/2002)

7-02-001-0063 INTENT OF CHAPTER

In order to meet the grant regulation requirements for Construction of Treatment Works established by E.P.A. at [40 CFR Part 30](#) and [40 CFR Part 35](#), the City is required by the Regional Administrator to have its user charge rates and ordinance approved and enacted before the treatment works constructed with grant funds are placed in operation. To satisfy this requirement, the City has this day enacted and approved this Chapter. It is the intent of the City Council that the rates and procedures required by E.P.A. be effective before the treatment works constructed with the grant are placed in operation. (Ord. 1104, 12-4-79)

ORDINANCE NO. 2015-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, CHAPTER 7-02, WASTEWATER REGULATIONS, BY ADOPTING THE “REVISED DISCHARGE LIMITATIONS FOR INDUSTRIAL USERS” AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK RELATING TO THE STANDARDS AND LOCAL LIMITS FOR INDUSTRIAL SEWER DISCHARGE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, on July 16, 2002, the City of Flagstaff (“City”) amended wastewater regulations by adopting Ordinance No. 2002-08 amending the uniform requirements for users of the Publicly Owned Treatment Works for the City of Flagstaff and establishing local limits for sewer industrial discharge; and

WHEREAS, the local limits for sewer industrial discharge under the City’s wastewater regulations are updated and revised from time to time;

WHEREAS, the Utilities Division has again prepared and proposes that the Council adopt a newly revised local limits for sewer industrial discharge; and

WHEREAS, having considered the recommendation of the Utilities Division and having read and considered the Staff Summary Report submitted in support of this Ordinance, the Council finds that adoption of the revised discharge limitations for industrial users is in the best interests of the citizens of the City of Flagstaff.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Chapter 7-02, *Wastewater Regulations*, Sections: 7-02-001-0004 *Definitions*; 7-02-001-0006 *Allocation of Responsibility for Cleaning, Repair and Replacement of Building Sewers and Connections*; 7-02-001-0009 *Prohibited Substances*; 7-02-001-0010 *Standards for Discharge*; 7-02-001-0011 *Industrial Classifications*; 7-02-001-0012 *Industrial Self-Monitoring*; 7-02-001-0016 *Interceptors*; *Type, Capacity, Locations, Maintenance*; 7-02-001-0021 *Procedures for Enforcement*; are hereby amended by adoption of the amendments set forth in that document known as the “*Discharge Limitations for Industrial Users*,” declared a public record by Resolution No. 2015-19 and on file with the Clerk.

.....

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections.

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date.

This ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this ____ the day of _____, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution No. 2015-21: A resolution of the City Council of the City of Flagstaff, Coconino County, Arizona, declaring official and adopting the results of the Special Election held on May 19, 2015. ***(Results for Election on Changes to City Charter)***

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-21 by title only
- 2) City Clerk reads Resolution No. 2015-21 by title only (if approved above)
- 2) Adopt Resolution No. 2015-21

Executive Summary:

Arizona Revised Statutes §16-542A requires *"the governing body holding an election...meet and canvass the election not less than six days nor more than twenty days following the election."* The results of the Special Meeting of May 19, 2015, re Charter Amendments will be submitted with the final agenda for the June 2, 2015, meeting.

Financial Impact:

There is no financial cost associated with this specific action which has been folded into the overall cost of the election.

Connection to Council Goal and/or Regional Plan:

This item is not connected to a specific Council goal.

Has There Been Previous Council Decision on This:

The City Council did consider and adopt Resolution No. 2014-43 on January 6, 2015, calling for the Special Election to be held on May 19, 2015, and approving the ballot language.

Options and Alternatives:

Because this action is legally prescribed, there are no other options.

Background/History:

On January 6, 2015, the City Council adopted Resolution No. 2014-43 which authorized the Special Election to be held on May 19, 2015, and approved the ballot language. The City contracted with Coconino County Elections to conduct this election as a Mail Ballot election.

As noted in the attached resolution, ten of the twelve amendments were approved by the voters. Once this resolution is adopted canvassing the election results, it will be forwarded to the Governor's Office for approval. Once the city receives approval from the Governor's Office the changes will be effective and copies of the Charter will be amended.

Key Considerations:

Required by state law to amend the City Charter

Expanded Financial Considerations:

Advances the democratic process

Community Benefits and Considerations:

Empower

Attachments: [Res. 2015-21](#)

RESOLUTION NO. 2015-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, DECLARING OFFICIAL AND ADOPTING THE RESULTS OF THE SPECIAL ELECTION HELD ON MAY 19, 2015

RECITALS:

WHEREAS, ARS §16-642 requires that the City Council canvass the returns of a Special Election no earlier than six (6) nor later than twenty (20) days following the election; and

WHEREAS, the Special Election returns have been presented to and have been canvassed by the Flagstaff City Council.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the total number of ballots cast at said Special Election, as shown by the Election Summary Report provided by the Coconino County Elections Department was 4,604, Exhibit A attached hereto and made a part hereof. With a total of 29,409 registered voters in the City, this represents a 15.66% voter turnout. The total number of ballots rejected for the Special Election of the City of Flagstaff was 294, as indicated in Exhibit B attached hereto and made a part hereof.

SECTION 2. That the following results of the May 19, 2015, Special Election are hereby declared official:

QUESTION NO. 1 PROPOSED AMENDMENT RELATING TO: *TERM OF THE MAYOR TO BEGIN*

YES: 3,496
NO: 1,046

QUESTION NO. 2 PROPOSED AMENDMENT RELATING TO: *TERM OF COUNCIL-MEMBERS TO BEGIN*

YES: 3,479
NO: 1,062

QUESTION NO. 3 PROPOSED AMENDMENT RELATING TO: *INDUCTION OF MAYOR AND COUNCIL*

YES: 3,495
NO: 1,037

- QUESTION NO. 4** PROPOSED AMENDMENT RELATING TO: *CALCULATION OF VACANCY PERIOD FOR MAYOR AND COUNCIL*
- YES:** 3,455
NO: 1,058
- QUESTION NO. 5** PROPOSED AMENDMENT RELATING TO: *COUNCIL APPROVAL OF CITY CLERK APPOINTMENT*
- YES:** 2,347
NO: 2,179
- QUESTION NO. 6** PROPOSED AMENDMENT RELATING TO: *COUNCIL APPROVAL OF CITY TREASURER APPOINTMENT*
- YES:** 2,199
NO: 2,337
- QUESTION NO. 7** PROPOSED AMENDMENT RELATING TO: *CITY ATTORNEY MAY CALL EXECUTIVE SESSION*
- YES:** 3,112
NO: 1,394
- QUESTION NO. 8** PROPOSED AMENDMENT RELATING TO: *FINAL READ OF ORDINANCES ON SAME DAY AS FIRST READ*
- YES:** 2,226
NO: 2,268
- QUESTION NO. 9** PROPOSED AMENDMENT RELATING TO: *EMERGENCY MEASURES*
- YES:** 3,374
NO: 1,140
- QUESTION NO. 10** PROPOSED AMENDMENT RELATING TO: *PUBLICATION OF ORDINANCES AND RESOLUTIONS*
- YES:** 3,524
NO: 995
- QUESTION NO. 11** PROPOSED AMENDMENT RELATING TO: *SALE OF CITY PROPERTY*
- YES:** 3,035
NO: 1,463

QUESTION NO. 12 PROPOSED AMENDMENT RELATING TO: *NOMINATION FOR
PRIMARY ELECTION*

YES: **3,396**

NO: **1,122**

PASSED AND ADOPTED by the City Council of the City of Flagstaff, this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM

CITY ATTORNEY

EXHIBIT 'A'

ELECTION SUMMARY REPORT FROM COCONINO COUNTY

FINAL RESULTS

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:47:26
Page:1 of 2

Summary For Jurisdiction Wide, All Counters, All Races
FINAL RESULTS

Registered Voters 29409 - Cards Cast 4604 15.66%

Num. Report Precinct 26 - Num. Reporting 26 100.00%

QUESTION 1

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4542	
YES	3496	76.97%
NO	1046	23.03%

QUESTION 6

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4536	
YES	2199	48.48%
NO	2337	51.52%

QUESTION 2

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4541	
YES	3479	76.61%
NO	1062	23.39%

QUESTION 7

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4506	
YES	3112	69.06%
NO	1394	30.94%

QUESTION 3

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4532	
YES	3495	77.12%
NO	1037	22.88%

QUESTION 8

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4494	
YES	2226	49.53%
NO	2268	50.47%

QUESTION 4

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4513	
YES	3455	76.56%
NO	1058	23.44%

QUESTION 9

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4514	
YES	3374	74.75%
NO	1140	25.25%

QUESTION 5

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4526	
YES	2347	51.86%
NO	2179	48.14%

QUESTION 10

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4519	
YES	3524	77.98%
NO	995	22.02%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:47:26
Page:2 of 2

Summary For Jurisdiction Wide, All Counters, All Races
FINAL RESULTS

Registered Voters 29409 - Cards Cast 4604 15.66%

Num. Report Precinct 26 - Num. Reporting 26 100.00%

QUESTION 11

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4498	
YES	3035	67.47%
NO	1463	32.53%

QUESTION 12

	Total	
Number of Precincts	26	
Precincts Reporting	26	100.0 %
Times Counted	4604/29409	15.7 %
Total Votes	4518	
YES	3396	75.17%
NO	1122	24.83%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:39
Page:1 of 1

Summary For Flagstaff 1, All Counters, All Races
FINAL RESULTS

Registered Voters 1279 - Cards Cast 267 20.88%

Num. Reporting 1

QUESTION 1		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	266	
YES	221	83.08%
NO	45	16.92%

QUESTION 7		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	265	
YES	202	76.23%
NO	63	23.77%

QUESTION 2		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	264	
YES	220	83.33%
NO	44	16.67%

QUESTION 8		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	263	
YES	118	44.87%
NO	145	55.13%

QUESTION 3		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	265	
YES	220	83.02%
NO	45	16.98%

QUESTION 9		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	264	
YES	203	76.89%
NO	61	23.11%

QUESTION 4		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	266	
YES	216	81.20%
NO	50	18.80%

QUESTION 10		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	264	
YES	215	81.44%
NO	49	18.56%

QUESTION 5		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	265	
YES	157	59.25%
NO	108	40.75%

QUESTION 11		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	265	
YES	186	70.19%
NO	79	29.81%

QUESTION 6		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	266	
YES	149	56.02%
NO	117	43.98%

QUESTION 12		
	Total	
Precincts Reporting	1	
Times Counted	267/1279	20.9 %
Total Votes	265	
YES	211	79.62%
NO	54	20.38%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:39
Page:1 of 1

Summary For Flagstaff 2, All Races
FINAL RESULTS

Registered Voters 1096 - Cards Cast 223 20.35%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	221		
YES	187	84.62%	
NO	34	15.38%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	220		
YES	173	78.64%	
NO	47	21.36%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	221		
YES	188	85.07%	
NO	33	14.93%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	216		
YES	102	47.22%	
NO	114	52.78%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	221		
YES	187	84.62%	
NO	34	15.38%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	218		
YES	180	82.57%	
NO	38	17.43%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	218		
YES	177	81.19%	
NO	41	18.81%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	220		
YES	175	79.55%	
NO	45	20.45%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	220		
YES	123	55.91%	
NO	97	44.09%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	218		
YES	152	69.72%	
NO	66	30.28%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	219		
YES	110	50.23%	
NO	109	49.77%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	223/1096	20.3 %	
Total Votes	220		
YES	174	79.09%	
NO	46	20.91%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:39
Page:1 of 1

Summary For Flagstaff 3, All Counters, All Races
FINAL RESULTS

Registered Voters 777 - Cards Cast 131 16.86%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	131		
YES	96	73.28%	
NO	35	26.72%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	129		
YES	84	65.12%	
NO	45	34.88%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	131		
YES	97	74.05%	
NO	34	25.95%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	130		
YES	43	33.08%	
NO	87	66.92%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	131		
YES	97	74.05%	
NO	34	25.95%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	130		
YES	87	66.92%	
NO	43	33.08%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	130		
YES	96	73.85%	
NO	34	26.15%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	128		
YES	100	78.13%	
NO	28	21.88%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	127		
YES	60	47.24%	
NO	67	52.76%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	131		
YES	84	64.12%	
NO	47	35.88%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	129		
YES	55	42.64%	
NO	74	57.36%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	131/777	16.9 %	
Total Votes	130		
YES	88	67.69%	
NO	42	32.31%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:39
Page:1 of 1

Summary For Flagstaff 4, All Counties, All Races
FINAL RESULTS

Registered Voters 1392 - Cards Cast 330 23.71%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	326		
YES	260	79.75%	
NO	66	20.25%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	320		
YES	221	69.06%	
NO	99	30.94%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	325		
YES	257	79.08%	
NO	68	20.92%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	316		
YES	152	48.10%	
NO	164	51.90%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	321		
YES	252	78.50%	
NO	69	21.50%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	319		
YES	247	77.43%	
NO	72	22.57%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	321		
YES	251	78.19%	
NO	70	21.81%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	319		
YES	258	80.88%	
NO	61	19.12%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	318		
YES	180	56.60%	
NO	138	43.40%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	320		
YES	223	69.69%	
NO	97	30.31%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	321		
YES	173	53.89%	
NO	148	46.11%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	330/1392	23.7 %	
Total Votes	319		
YES	245	76.80%	
NO	74	23.20%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:40
Page:1 of 1

Summary For Flagstaff 5, All Counters, All Races
FINAL RESULTS

Registered Voters 1585 - Cards Cast 292 18.42%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	285		
YES	238	83.51%	
NO	47	16.49%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	281		
YES	210	74.73%	
NO	71	25.27%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	285		
YES	234	82.11%	
NO	51	17.89%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	275		
YES	143	52.00%	
NO	132	48.00%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	285		
YES	233	81.75%	
NO	52	18.25%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	283		
YES	230	81.27%	
NO	53	18.73%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	280		
YES	220	78.57%	
NO	60	21.43%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	284		
YES	233	82.04%	
NO	51	17.96%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	280		
YES	164	58.57%	
NO	116	41.43%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	279		
YES	205	73.48%	
NO	74	26.52%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	283		
YES	162	57.24%	
NO	121	42.76%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	292/1585	18.4 %	
Total Votes	283		
YES	227	80.21%	
NO	56	19.79%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:40
Page:1 of 1

Summary For Flagstaff 6, All Counters, All Races
FINAL RESULTS

Registered Voters 912 - Cards Cast 147 16.12%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	104	72.22%	
NO	40	27.78%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	143		
YES	96	67.13%	
NO	47	32.87%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	103	71.53%	
NO	41	28.47%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	143		
YES	66	46.15%	
NO	77	53.85%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	102	70.83%	
NO	42	29.17%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	96	66.67%	
NO	48	33.33%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	142		
YES	101	71.13%	
NO	41	28.87%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	104	72.22%	
NO	40	27.78%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	146		
YES	74	50.68%	
NO	72	49.32%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	142		
YES	94	66.20%	
NO	48	33.80%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	146		
YES	73	50.00%	
NO	73	50.00%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	147/912	16.1 %	
Total Votes	144		
YES	100	69.44%	
NO	44	30.56%	

Election Summary Report

SPECIAL ELECTION

MAY 19, 2015

Summary For Flagstaff 7, All Counters, All Races

FINAL RESULTS

Date:05/27/15

Time:13:48:40

Page:1 of 1

Registered Voters 947 - Cards Cast 139 14.68%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	138	
YES	111	80.43%
NO	27	19.57%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	138	
YES	93	67.39%
NO	45	32.61%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	138	
YES	111	80.43%
NO	27	19.57%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	137	
YES	76	55.47%
NO	61	44.53%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	136	
YES	112	82.35%
NO	24	17.65%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	137	
YES	107	78.10%
NO	30	21.90%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	137	
YES	106	77.37%
NO	31	22.63%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	138	
YES	113	81.88%
NO	25	18.12%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	136	
YES	77	56.62%
NO	59	43.38%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	138	
YES	94	68.12%
NO	44	31.88%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	136	
YES	73	53.68%
NO	63	46.32%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	139/947	14.7 %
Total Votes	136	
YES	106	77.94%
NO	30	22.06%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:40
Page:1 of 1

Summary For Flagstaff 8, All Races
FINAL RESULTS

Registered Voters 773 - Cards Cast 195 25.23%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	193		
YES	144	74.61%	
NO	49	25.39%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	194		
YES	125	64.43%	
NO	69	35.57%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	192		
YES	143	74.48%	
NO	49	25.52%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	193		
YES	82	42.49%	
NO	111	57.51%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	193		
YES	150	77.72%	
NO	43	22.28%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	194		
YES	135	69.59%	
NO	59	30.41%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	193		
YES	156	80.83%	
NO	37	19.17%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	194		
YES	148	76.29%	
NO	46	23.71%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	192		
YES	100	52.08%	
NO	92	47.92%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	192		
YES	130	67.71%	
NO	62	32.29%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	193		
YES	97	50.26%	
NO	96	49.74%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	195/773	25.2 %	
Total Votes	194		
YES	144	74.23%	
NO	50	25.77%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:41
Page:1 of 1

Summary For Flagstaff 9, All Counters, All Races
FINAL RESULTS

Registered Voters 1100 - Cards Cast 92 8.36%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	91		
YES	69	75.82%	
NO	22	24.18%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	91		
YES	58	63.74%	
NO	33	36.26%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	92		
YES	70	76.09%	
NO	22	23.91%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	91		
YES	51	56.04%	
NO	40	43.96%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	92		
YES	74	80.43%	
NO	18	19.57%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	90		
YES	69	76.67%	
NO	21	23.33%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	92		
YES	73	79.35%	
NO	19	20.65%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	91		
YES	74	81.32%	
NO	17	18.68%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	92		
YES	41	44.57%	
NO	51	55.43%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	88		
YES	67	76.14%	
NO	21	23.86%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	92		
YES	39	42.39%	
NO	53	57.61%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	92/1100	8.4 %	
Total Votes	91		
YES	67	73.63%	
NO	24	26.37%	

Election Summary Report

Date:05/27/15

SPECIAL ELECTION

Time:13:48:41

MAY 19, 2015

Page:1 of 1

Summary For Flagstaff 10, All Races

FINAL RESULTS

Registered Voters 241 - Cards Cast 0 0.00%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	0/241	0.0 %	
Total Votes	0		
YES	0	N/A	
NO	0	N/A	

Election Summary Report

SPECIAL ELECTION

MAY 19, 2015

Summary For Flagstaff 11, All Counters, All Races

FINAL RESULTS

Date:05/27/15

Time:13:48:41

Page:1 of 1

Registered Voters 773 - Cards Cast 64 8.28%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	61	
YES	39	63.93%
NO	22	36.07%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	62	
YES	38	61.29%
NO	24	38.71%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	61	
YES	36	59.02%
NO	25	40.98%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	61	
YES	22	36.07%
NO	39	63.93%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	61	
YES	38	62.30%
NO	23	37.70%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	63	
YES	42	66.67%
NO	21	33.33%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	60	
YES	36	60.00%
NO	24	40.00%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	62	
YES	44	70.97%
NO	18	29.03%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	60	
YES	27	45.00%
NO	33	55.00%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	62	
YES	41	66.13%
NO	21	33.87%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	60	
YES	26	43.33%
NO	34	56.67%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	64/773	8.3 %
Total Votes	61	
YES	42	68.85%
NO	19	31.15%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:42
Page:1 of 1

Summary For Flagstaff 12, All Counters, All Races
FINAL RESULTS

Registered Voters 814 - Cards Cast 58 7.13%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	39	67.24%	
NO	19	32.76%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	57		
YES	34	59.65%	
NO	23	40.35%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	42	72.41%	
NO	16	27.59%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	34	58.62%	
NO	24	41.38%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	43	74.14%	
NO	15	25.86%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	43	74.14%	
NO	15	25.86%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	57		
YES	43	75.44%	
NO	14	24.56%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	48	82.76%	
NO	10	17.24%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	33	56.90%	
NO	25	43.10%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	37	63.79%	
NO	21	36.21%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	30	51.72%	
NO	28	48.28%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	58/814	7.1 %	
Total Votes	58		
YES	39	67.24%	
NO	19	32.76%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:42
Page:1 of 1

Summary For Flagstaff 13, All Counters, All Races
FINAL RESULTS

Registered Voters 443 - Cards Cast 9 2.03%

Num. Reporting 1

QUESTION 1		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	6	66.67%
NO	3	33.33%

QUESTION 7		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	7	77.78%
NO	2	22.22%

QUESTION 2		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	6	66.67%
NO	3	33.33%

QUESTION 8		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	6	66.67%
NO	3	33.33%

QUESTION 3		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	6	66.67%
NO	3	33.33%

QUESTION 9		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	8	88.89%
NO	1	11.11%

QUESTION 4		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	7	77.78%
NO	2	22.22%

QUESTION 10		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	8	88.89%
NO	1	11.11%

QUESTION 5		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	5	55.56%
NO	4	44.44%

QUESTION 11		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	8	88.89%
NO	1	11.11%

QUESTION 6		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	4	44.44%
NO	5	55.56%

QUESTION 12		
	Total	
Precincts Reporting	1	
Times Counted	9/443	2.0 %
Total Votes	9	
YES	7	77.78%
NO	2	22.22%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:42
Page:1 of 1

Summary For Flagstaff 14, All Counters, All Races
FINAL RESULTS

Registered Voters 842 - Cards Cast 52 6.18%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	44	86.27%	
NO	7	13.73%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	40	78.43%	
NO	11	21.57%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	50		
YES	42	84.00%	
NO	8	16.00%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	34	66.67%	
NO	17	33.33%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	43	84.31%	
NO	8	15.69%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	52		
YES	45	86.54%	
NO	7	13.46%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	44	86.27%	
NO	7	13.73%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	45	88.24%	
NO	6	11.76%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	35	68.63%	
NO	16	31.37%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	52		
YES	34	65.38%	
NO	18	34.62%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	51		
YES	30	58.82%	
NO	21	41.18%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	52/842	6.2 %	
Total Votes	52		
YES	42	80.77%	
NO	10	19.23%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:42
Page:1 of 1

Summary For Flagstaff 15, All Counters, All Races
FINAL RESULTS

Registered Voters 2178 - Cards Cast 258 11.85%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	253		
YES	174	68.77%	
NO	79	31.23%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	255		
YES	161	63.14%	
NO	94	36.86%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	254		
YES	172	67.72%	
NO	82	32.28%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	254		
YES	136	53.54%	
NO	118	46.46%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	254		
YES	172	67.72%	
NO	82	32.28%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	256		
YES	177	69.14%	
NO	79	30.86%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	252		
YES	173	68.65%	
NO	79	31.35%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	256		
YES	181	70.70%	
NO	75	29.30%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	255		
YES	118	46.27%	
NO	137	53.73%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	250		
YES	143	57.20%	
NO	107	42.80%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	255		
YES	110	43.14%	
NO	145	56.86%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	258/2178	11.8 %	
Total Votes	254		
YES	171	67.32%	
NO	83	32.68%	

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:43
Page:1 of 1

Summary For Flagstaff 16, All Counties, All Races
FINAL RESULTS

Registered Voters 1643 - Cards Cast 298 18.14%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	293		
YES	199	67.92%	
NO	94	32.08%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	294		
YES	183	62.24%	
NO	111	37.76%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	293		
YES	195	66.55%	
NO	98	33.45%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	296		
YES	134	45.27%	
NO	162	54.73%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	292		
YES	202	69.18%	
NO	90	30.82%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	296		
YES	210	70.95%	
NO	86	29.05%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	291		
YES	192	65.98%	
NO	99	34.02%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	295		
YES	216	73.22%	
NO	79	26.78%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	292		
YES	133	45.55%	
NO	159	54.45%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	297		
YES	179	60.27%	
NO	118	39.73%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	293		
YES	123	41.98%	
NO	170	58.02%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	298/1643	18.1 %	
Total Votes	294		
YES	203	69.05%	
NO	91	30.95%	

Election Summary Report

Date:05/27/15

SPECIAL ELECTION

Time:13:48:43

MAY 19, 2015

Page:1 of 1

Summary For Flagstaff 17, All Counters, All Races

FINAL RESULTS

Registered Voters 588 - Cards Cast 77 13.10%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	74	
YES	50	67.57%
NO	24	32.43%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	73	
YES	42	57.53%
NO	31	42.47%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	74	
YES	49	66.22%
NO	25	33.78%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	73	
YES	31	42.47%
NO	42	57.53%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	74	
YES	49	66.22%
NO	25	33.78%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	75	
YES	57	76.00%
NO	18	24.00%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	76	
YES	56	73.68%
NO	20	26.32%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	73	
YES	53	72.60%
NO	20	27.40%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	76	
YES	32	42.11%
NO	44	57.89%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	73	
YES	51	69.86%
NO	22	30.14%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	76	
YES	30	39.47%
NO	46	60.53%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	77/588	13.1 %
Total Votes	75	
YES	58	77.33%
NO	17	22.67%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:43
Page:1 of 1

Summary For Flagstaff 18, All Races
FINAL RESULTS

Registered Voters 629 - Cards Cast 71 11.29%

Num. Reporting 1

QUESTION 1		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	45	64.29%
NO	25	35.71%

QUESTION 7		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	38	54.29%
NO	32	45.71%

QUESTION 2		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	69	
YES	43	62.32%
NO	26	37.68%

QUESTION 8		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	23	32.86%
NO	47	67.14%

QUESTION 3		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	69	
YES	45	65.22%
NO	24	34.78%

QUESTION 9		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	68	
YES	39	57.35%
NO	29	42.65%

QUESTION 4		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	68	
YES	44	64.71%
NO	24	35.29%

QUESTION 10		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	45	64.29%
NO	25	35.71%

QUESTION 5		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	69	
YES	26	37.68%
NO	43	62.32%

QUESTION 11		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	41	58.57%
NO	29	41.43%

QUESTION 6		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	69	
YES	26	37.68%
NO	43	62.32%

QUESTION 12		
	Total	
Precincts Reporting	1	
Times Counted	71/629	11.3 %
Total Votes	70	
YES	48	68.57%
NO	22	31.43%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015
Summary For Flagstaff 19, All Counters, All Races
FINAL RESULTS

Date:05/27/15
Time:13:48:44
Page:1 of 1

Registered Voters 1289 - Cards Cast 211 16.37%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	209		
YES	153	73.21%	
NO	56	26.79%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	209		
YES	144	68.90%	
NO	65	31.10%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	209		
YES	153	73.21%	
NO	56	26.79%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	206		
YES	99	48.06%	
NO	107	51.94%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	208		
YES	151	72.60%	
NO	57	27.40%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	207		
YES	152	73.43%	
NO	55	26.57%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	208		
YES	157	75.48%	
NO	51	24.52%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	206		
YES	158	76.70%	
NO	48	23.30%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	208		
YES	105	50.48%	
NO	103	49.52%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	209		
YES	133	63.64%	
NO	76	36.36%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	209		
YES	96	45.93%	
NO	113	54.07%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	211/1289	16.4 %	
Total Votes	208		
YES	155	74.52%	
NO	53	25.48%	

Election Summary Report

SPECIAL ELECTION

MAY 19, 2015

Summary For Flagstaff 20, All Counters, All Races

FINAL RESULTS

Date:05/27/15

Time:13:48:44

Page:1 of 1

Registered Voters 460 - Cards Cast 10 2.17%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	7	70.00%
NO	3	30.00%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	8	80.00%
NO	2	20.00%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	7	70.00%
NO	3	30.00%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	6	60.00%
NO	4	40.00%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	7	70.00%
NO	3	30.00%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	9	90.00%
NO	1	10.00%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	8	80.00%
NO	2	20.00%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	9	90.00%
NO	1	10.00%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	3	30.00%
NO	7	70.00%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	7	70.00%
NO	3	30.00%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	3	30.00%
NO	7	70.00%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	10/460	2.2 %
Total Votes	10	
YES	7	70.00%
NO	3	30.00%

Election Summary Report

SPECIAL ELECTION

MAY 19, 2015

Summary For Flagstaff 21, All Counters, All Races

FINAL RESULTS

Date:05/27/15

Time:13:48:44

Page:1 of 1

Registered Voters 1772 - Cards Cast 380 21.44%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	373	
YES	283	75.87%
NO	90	24.13%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	372	
YES	258	69.35%
NO	114	30.65%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	375	
YES	285	76.00%
NO	90	24.00%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	373	
YES	170	45.58%
NO	203	54.42%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	373	
YES	285	76.41%
NO	88	23.59%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	371	
YES	270	72.78%
NO	101	27.22%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	372	
YES	280	75.27%
NO	92	24.73%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	373	
YES	286	76.68%
NO	87	23.32%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	376	
YES	179	47.61%
NO	197	52.39%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	368	
YES	234	63.59%
NO	134	36.41%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	374	
YES	167	44.65%
NO	207	55.35%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	380/1772	21.4 %
Total Votes	371	
YES	269	72.51%
NO	102	27.49%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:44
Page:1 of 1

Summary For Flagstaff 22, All Counters, All Races
FINAL RESULTS

Registered Voters 2258 - Cards Cast 309 13.68%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	307		
YES	243	79.15%	
NO	64	20.85%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	300		
YES	206	68.67%	
NO	94	31.33%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	307		
YES	242	78.83%	
NO	65	21.17%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	303		
YES	158	52.15%	
NO	145	47.85%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	306		
YES	240	78.43%	
NO	66	21.57%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	302		
YES	224	74.17%	
NO	78	25.83%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	307		
YES	242	78.83%	
NO	65	21.17%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	304		
YES	237	77.96%	
NO	67	22.04%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	307		
YES	145	47.23%	
NO	162	52.77%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	304		
YES	215	70.72%	
NO	89	29.28%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	306		
YES	129	42.16%	
NO	177	57.84%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	309/2258	13.7 %	
Total Votes	303		
YES	226	74.59%	
NO	77	25.41%	

Election Summary Report

Date:05/27/15

SPECIAL ELECTION

Time:13:48:45

MAY 19, 2015

Page:1 of 1

Summary For Flagstaff 23, All Counters, All Races
FINAL RESULTS

Registered Voters 932 - Cards Cast 127 13.63%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	124	
YES	97	78.23%
NO	27	21.77%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	124	
YES	85	68.55%
NO	39	31.45%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	125	
YES	95	76.00%
NO	30	24.00%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	127	
YES	64	50.39%
NO	63	49.61%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	125	
YES	98	78.40%
NO	27	21.60%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	126	
YES	93	73.81%
NO	33	26.19%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	125	
YES	101	80.80%
NO	24	19.20%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	126	
YES	100	79.37%
NO	26	20.63%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	123	
YES	56	45.53%
NO	67	54.47%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	125	
YES	90	72.00%
NO	35	28.00%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	125	
YES	53	42.40%
NO	72	57.60%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	127/932	13.6 %
Total Votes	127	
YES	98	77.17%
NO	29	22.83%

Election Summary Report
SPECIAL ELECTION
MAY 19, 2015

Date:05/27/15
Time:13:48:45
Page:1 of 1

Summary For Flagstaff 24, All Races
FINAL RESULTS

Registered Voters 2192 - Cards Cast 439 20.03%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	433		
YES	359	82.91%	
NO	74	17.09%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	424		
YES	319	75.24%	
NO	105	24.76%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	433		
YES	360	83.14%	
NO	73	16.86%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	425		
YES	250	58.82%	
NO	175	41.18%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	433		
YES	362	83.60%	
NO	71	16.40%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	428		
YES	335	78.27%	
NO	93	21.73%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	433		
YES	347	80.14%	
NO	86	19.86%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	426		
YES	344	80.75%	
NO	82	19.25%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	435		
YES	251	57.70%	
NO	184	42.30%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	426		
YES	309	72.54%	
NO	117	27.46%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	435		
YES	242	55.63%	
NO	193	44.37%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	439/2192	20.0 %	
Total Votes	426		
YES	345	80.99%	
NO	81	19.01%	

Election Summary Report

Date:05/27/15

SPECIAL ELECTION

Time:13:48:45

MAY 19, 2015

Page:1 of 1

Summary For Flagstaff 25, All Counters, All Races
FINAL RESULTS

Registered Voters 1613 - Cards Cast 324 20.09%

Num. Reporting 1

QUESTION 1

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	322	
YES	267	82.92%
NO	55	17.08%

QUESTION 7

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	315	
YES	230	73.02%
NO	85	26.98%

QUESTION 2

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	322	
YES	268	83.23%
NO	54	16.77%

QUESTION 8

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	316	
YES	174	55.06%
NO	142	44.94%

QUESTION 3

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	322	
YES	267	82.92%
NO	55	17.08%

QUESTION 9

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	316	
YES	253	80.06%
NO	63	19.94%

QUESTION 4

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	316	
YES	260	82.28%
NO	56	17.72%

QUESTION 10

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	320	
YES	264	82.50%
NO	56	17.50%

QUESTION 5

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	322	
YES	174	54.04%
NO	148	45.96%

QUESTION 11

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	313	
YES	219	69.97%
NO	94	30.03%

QUESTION 6

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	323	
YES	157	48.61%
NO	166	51.39%

QUESTION 12

	Total	
Precincts Reporting	1	
Times Counted	324/1613	20.1 %
Total Votes	319	
YES	259	81.19%
NO	60	18.81%

Election Summary Report

SPECIAL ELECTION

MAY 19, 2015

Summary For Flagstaff 26, All Counters, All Races

FINAL RESULTS

Date:05/27/15

Time:13:48:46

Page:1 of 1

Registered Voters 881 - Cards Cast 101 11.46%

Num. Reporting 1

QUESTION 1			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	100		
YES	61	61.00%	
NO	39	39.00%	

QUESTION 7			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	100		
YES	57	57.00%	
NO	43	43.00%	

QUESTION 2			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	100		
YES	61	61.00%	
NO	39	39.00%	

QUESTION 8			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	98		
YES	52	53.06%	
NO	46	46.94%	

QUESTION 3			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	99		
YES	60	60.61%	
NO	39	39.39%	

QUESTION 9			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	98		
YES	63	64.29%	
NO	35	35.71%	

QUESTION 4			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	99		
YES	69	69.70%	
NO	30	30.30%	

QUESTION 10			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	98		
YES	66	67.35%	
NO	32	32.65%	

QUESTION 5			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	99		
YES	49	49.49%	
NO	50	50.51%	

QUESTION 11			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	99		
YES	59	59.60%	
NO	40	40.40%	

QUESTION 6			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	98		
YES	42	42.86%	
NO	56	57.14%	

QUESTION 12			
	Total		
Precincts Reporting	1		
Times Counted	101/881	11.5 %	
Total Votes	99		
YES	65	65.66%	
NO	34	34.34%	

EXHIBIT 'B'

REJECTED – SIGNATURE DIFFERENT:	13
REJECTED – SIGNATURE MISSING:	2
REJECTED – BALLOT RECEIVED TOO LATE:	271
REJECTED – NO OFFICIAL BALLOT IN ENVELOPE:	8

BALLOTS RETURNED UNDELIVERABLE:	1,206
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CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: David Wessel, Metro Planning Org Manager
Co-Submitter: Stacey Brechler-Knaggs, Grants Manager
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Intergovernmental Agreement: Intergovernmental Agreement/Joint Project Agreement (IGA/JPA) 11-085 between the State of Arizona and the City of Flagstaff acting for and on behalf of the Flagstaff Metropolitan Planning Organization, Amendment 4 for Fiscal Year 2016
(Annual Update of FMPO IPA/JPA)

RECOMMENDED ACTION:

Approve IGA/JPA 11-085 Amendment 4

Executive Summary:

IGA/JPA 11-085 and its related amendments acknowledges the roles and responsibilities of the Flagstaff Metropolitan Planning Organization (FMPO) in the provision of regional transportation planning and programming in accordance with federal mandates and authorizes the Arizona Department of Transportation to provide federal transportation planning and construction funds for those purposes.

Financial Impact:

Annually, FMPO brings in about \$260,000 in planning funds, \$460,000 in general construction funds and \$550,000 in safety project funds. Failure to approve the amendment will de-fund the FMPO and essential services in transportation modeling, trails planning and more will fall to City staff. Loss of the FMPO will result in the City's loss of eligibility for federal transportation construction funds.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics
- 6) Relieve traffic congestion throughout Flagstaff
- 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

REGIONAL PLAN:

- LU.1. Invest in existing neighborhoods and activity centers for the purpose of developing complete and connected places.
- LU.7. Provide for public services and infrastructure.
- LU.12. Accommodate pedestrians, bicyclists, transit riders, and private cars to supplement downtown's status...

- T.1. Improve mobility and access throughout the region.
- T.2. Improve transportation safety and efficiency for all modes.
- T.3. Provide transportation infrastructure that is conducive to conservation, preservation, and development goals to avoid, minimize, or mitigate impacts on the natural and built environment.
- T.4. Promote transportation infrastructure and services that enhance the quality of life of the communities within the region.
- T.5. Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.
- T.6. Provide for bicycling as a safe and efficient means of transportation and recreation.
- T.7. Provide a high-quality, safe, convenient, accessible public transportation system, where feasible, to serve as an attractive alternative to single-occupant vehicles.
- T.8. Establish a functional, safe and aesthetic hierarchy of roads and streets.
- T.9. Strengthen and support rail service opportunities for the region's businesses and travelers.
- T.10. Strengthen and expand the role of Flagstaff Pulliam Airport as the dominant hub for passenger, air freight, public safety flights, and other services in northern Arizona.
- T.11. Build and sustain public support for the implementation of transportation planning goals and policies including the financial underpinnings of the Plan, by actively seeking meaningful community involvement.

Has There Been Previous Council Decision on This:

Yes. This is an annual amendment process. There have been three previous amendments to the IGA/JPA in this form acted upon by the Council.

Options and Alternatives:

- 1. Approve the amendment as presented. **Staff recommendation.** There are effectively no changes to the IGA/JPA. It has worked effectively over the past years.
- 2. Amend the IGA/JPA amendment. Not recommended. The staff is not aware of changes necessary to make the relationship with ADOT more effective.
- 3. Deny the IGA/JPA amendment. Not recommended. This effectively defunds the FMPO and makes the City and region ineligible for federal transportation funds. Several projects could be discontinued and future funding would not be available.

Background/History:

The FMPO has been in place since 1996. It started with an intergovernmental agreement between the City, County and State. More recently, an IGA between the City and County establishes the FMPO and this JPA 11-085 establishes the FMPO relation to the state. The City is acknowledged as the host agency for the FMPO and acts on its behalf.

Key Considerations:

The FMPO Executive Board will take action to adopt the work program referenced by this IGA/JPA on May 27, 2015.

Expanded Financial Considerations:

The City currently provides \$22,000 annually in transportation sales tax funding to the FMPO and supports part of the multimodal planner position through transportation sales tax, also. This funding is used to match federal grant funds and to provide trail planning and project delivery services for the City.

Community Benefits and Considerations:

The FMPO provides high quality transportation planning for the region and is respected across the state and nation. Approval of this amendment will assure the continuation of those services.

Community Involvement:

Consult - a 30-day public comment period on the work program was provided. The work program seeks to advance the regional transportation plan that enjoyed considerable public involvement. FMPO committee and board meetings are open to the public.

Attachments:

IGA/JPA 11-085 Amendment #4 FMPO FY16

Certification and Assurances Initial & Signature Page

Certifications and Assurances

MPD Agreement No	JPA 11-085 Amendment Four
AG Contract No	P0012011001543-85
CAR Agreement No	JPA-15-0005327-T
Advantage Project No	PLA0121P; PSA0121P
Section	Multimodal Planning Division
Advantage Vendor No	866000244 01
ProcureAZ Vendor No	000011618; PZ000011618 (City of Flagstaff)
MPO DUNS No	088302625
Description	FMPO Metropolitan Planning Organization Agreement for Work Program Implementation

JOINT PROJECT AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF ACTING FOR AND ON BEHALF OF
THE FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION

THIS AGREEMENT JPA 11-085 Amendment Four, established pursuant to Arizona Revised Statutes (A.R.S.), § 28-101, § 28-334, § 28-367et seq., is entered into _____, 2015 between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, herein referred to as the ADOT, established pursuant to Arizona Revised Statutes (A.R.S.), § 28-101, § 28-334, § 28-367et seq., and authorized to enter into this Agreement under A.R.S. § 28-401; and the CITY OF FLAGSTAFF ACTING FOR AND ON BEHALF OF FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION (FMPO), herein referred to as the MPO. ADOT and the MPO are collectively referred to as the “Parties”, and individually as ADOT, MPO, and “Party.”

RECITALS

- 1) To ensure a continuing, cooperative, and comprehensive transportation planning process that involves cooperation/coordination between the MPO and ADOT through the sharing of information.
- 2) The MPO is charged with the responsibility of carrying out transportation planning and programming processes that lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods; and supports metropolitan community development and social goals.

The Original agreement and any Amendments are being amended.

The parties agree to amend the above-referenced Agreement to extend the completion date to June 30, 2016 and to the following modifications, replacements, and additions:

- Recital 6 is modified
- Recital 7 is modified
- Definition: Cognizant Agency is added
- Definition: Matching Funds is modified
- Definition: Pass-Through Entity is added
- Section 1.0 (a) Paragraph 6 is modified
- Section 1.0 (d) is added
- Section 2.0 Paragraph 2 is modified
- Section 2.0 Paragraph 10, Sub-Item 2 is modified
- Section 4.0 is modified
- Section 5.0 (a), (b), (c), (d), (e), (g) are modified
- Section 6.0 (b) Item 3 is modified
- Section 7.0 (b) Paragraph 2 is modified
- Section 8.0 (a) is modified
- Section 8.0 (a) Chart 2 is deleted
- Section 8.0 (b) is modified
- Section 11.0 is modified
- Section 12.0 Paragraph 4 is modified
- Section 13.0 Paragraph 1 is modified
- Section 13.0 Paragraph 2 is deleted
- Section 14.0 Paragraph 5 is modified
- Section 28 Paragraph 4 is modified
- Section 30 Item 2 is modified
- Exhibit A is modified

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations herein, the parties desiring to be legally bound, do agree as follows:

RECITALS

Recital 6 is modified to read: "6) In accordance with 2 CFR 200.328, ADOT shall monitor all activities performed by its staff or by subrecipients of FHWA and FTA funds to assure that the work is being managed and performed satisfactorily and that time schedules are being met."

Recital 7 is modified to read: "ADOT has primary responsibility for administering FHWA and FTA funds allocated to the MPO and ensuring that such funds are expended for eligible costs, purpose and activities in accordance with 23 CFR 420.113, that are allowable per 2 CFR 200 et seq. as adopted or otherwise modified pursuant to 2 CFR 1201, and that are within the MPO planning boundaries."

DEFINITIONS

Cognizant Agency is modified to read:

Cognizant agency for audit: The Federal agency designated to carry out the responsibilities described in 2 CFR 200.513 Responsibilities, paragraph (a). The cognizant agency for audit is not necessarily the same as the cognizant agency for indirect costs. A list of cognizant agencies for audit may be found at the Federal Audit Clearinghouse Web site.

Cognizant agency for indirect costs: The Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this 2 CFR 200 on behalf of all Federal agencies. The cognizant agency for indirect cost is not necessarily the same as the cognizant agency for audit. For assignments of cognizant agencies see the following:

- (a) For IHEs: Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph C.11.
- (b) For nonprofit organizations: Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations, paragraph C.12.
- (c) For state and local governments: Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans, paragraph F.1.
- (d) For Indian tribes: Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposal, paragraph D.1.

Matching Funds is modified to read:

"Monies from non-federally funded sources used for matching or cost sharing requirements as defined and allowed under 49 CFR 18.24 2 CFR 200.306 and 2 CFR 200 Subpart E."

Pass-Through Entity is added to read:

“A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200.74)”

Section 1.0: SCOPE OF WORK

Item (a), Paragraph 6 is modified to read: "The Project approval for any specific WP extends for only a one year fiscal period for which the Project was developed in accordance with Federal requirements."

Item (d) is added to read: "In the event that the MPO passes through funds to another entity, the MPO is responsible for meeting the requirements of 2 CFR 200.331."

Section 2.0: WORK PROGRAM BUDGET

Paragraph 2 is modified to read: "Revisions to the WP budget may occur periodically and must be made in accordance with 2 CFR 200.308. Revisions do not change the ADOT, FHWA and FTA approved WP final total budget or the overall scope of ADOT, FHWA and FTA approved work plan or elements."

Paragraph 10, Sub-Item 2, Sentence 2 is modified to read: "The value of third party in-kind contributions may be accepted as the match for federal funds, in accordance with the provisions of 2 CFR 200.306 and 2 CFR 200 Subpart E. ADOT requires match to be applied to specific work elements. In-kind contributions shall be identified in the WP and be accompanied by a narrative description of the service being provided in addition to identification of the organization that will be providing the service."

Section 4.0: RIGHTS OF REVIEW

Section 4.0 is modified to read: "As required by 2 CFR 200.336, ADOT, FHWA, and FTA shall have the right to access and review the work (and approval or concurrence as appropriate), including, but not limited to: the WP, the Transportation Improvement Program (TIP), , all technical reports, the annual report, and all planning data prepared by the MPO. If ADOT, FHWA, and/or FTA finds that the work performed fails to comply with any requirement (e.g., work tasks are not conducted in accordance with approved work programs, or work tasks are found to be inconsistent with federal or state guidelines), ADOT, FHWA, and/or FTA may use the enforcement actions contained in 2 CFR 200.338 to remedy the situation and any other appropriate remedies available at law."

Section 5.0: ACCOUNTING RECORDS

Item (a) is modified to read: "The MPO shall establish separate accounts for each work element of the Project Budget, to be maintained within its existing accounting system or set up independently. Such accounts are referred to herein collectively as the Project Account. The Project Account and supporting documentation as set forth in 2 CFR 200 et seq., shall be made

available upon request for examination by ADOT, FHWA, and FTA or the Comptroller General of the United States in accordance with the requirements of 2 CFR 200.336."

Item (b) is modified to read: "Pursuant to the requirements of 2 CFR 200.307, the MPO shall record in the Project Account all payments received by it from ADOT pursuant to this article and all other funds provided for, accruing to, or otherwise received on account of the Project, which ADOT payments and other funds are herein collectively referred to as Project Funds."

Item (c) is modified to read: "The MPO shall charge to the Project Account all eligible costs of the Project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of ADOT, FHWA, and FTA shall not be considered eligible costs. Determination of eligible costs shall be in accordance with the requirements of 2 CFR 200.402 to 2 CFR 200.414 and 2 CFR 200.420 to 2 CFR 200.475."

Item (d) is modified to read: "All costs charged to the Project, including any approved services contributed by the MPO or others, shall be supported as required by 2 CFR 200.302 (b)(3) and 2 CFR 200 et seq. "

Item (e) is modified to read: "The MPO shall maintain records of verifiable matching funds and verifiable third party in-kind contributions as required by 2 CFR 200.306 and 2 CFR 200.302."

Section 6.0: AUDIT

Item (b) 3 is modified to read: "If the MPO expends less than \$750,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR 200 Subpart F, et seq., as revised, is not required. However, if the MPO elects to have an audit conducted in accordance with the provisions of 2 CFR 200 Subpart F, et seq., as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from MPO resources obtained from other than Federal entities). If the MPO is exempt from the Federal audit requirements, pursuant to 2 CFR 200.501(d), records must be available for review or audit by appropriate officials."

Section 7.0: REQUISITIONS AND PAYMENTS

Item (b) Paragraph 2 is modified to read: "In accordance with 23 U.S.C. 104 and specific guidance from ADOT, FHWA and FTA, ADOT will reimburse the MPO for actual expenses incurred by the MPO in furtherance of the Project. Requests for payment shall include documentation of expenditures as required by 2 CFR 200 et seq., and ADOT, as appropriate, and be accompanied by reporting of work accomplished by the MPO as described in the narrative progress report."

Section 8.0: PROCUREMENT, FIXED ASSETS, TRAVEL

Item (a) Paragraph 1 is modified to read: "In accordance with 2 CFR 1201.317, subrecipients are to establish a procurement policy which reflects applicable federal procurement laws and standards. To be exempted from pre-award reviews of procurements related to this Agreement, the subrecipient must establish and maintain on file with ADOT, procurement policy and procedures to ensure compliance. The MPO procurement policy and procedures shall be in compliance with Arizona Revised Statute (A.R.S.) 41-2501 et seq., and the Arizona Administrative Code (A.A.C.) R2-7-101 et seq."

Item (a) Paragraph 2 is modified to read: "In addition to other clauses required throughout this Agreement or by State law, the MPO will include applicable contract provisions in every third-party contract / purchase order using federal funding summarized (but not limited to) the following:

1. The requirements in 2 CFR 200.326,
2. The requirements in 2 CFR 200 Appendix II,
3. FHWA funded procurements/contracts:
<http://www.fhwa.dot.gov/construction/contracts/provisions.cfm>, as revised from time to time
4. FTA funded procurements/contracts: Circular 4220.1F – Third Party Contracting Guidance or its Appendix D, as revised from time to time
5. Any requirements established by a particular funding stream, program, or in funding agency guidelines."

Item (a) The Chart entitled "Federal Third Party Contract Provisions" is deleted.

Item (b) Paragraph 1 is modified to read: "The procurement, use, and disposition of real property and equipment shall be consistent with the approved WP and in accordance with the requirements of 2 CFR 1201.313, 2 CFR 200.313, and ADOT Policy FIN-11.08; Federal Property Management Standards which is herein incorporated by reference and made a part of this Agreement. The MPO agrees to inventory, to maintain records of and to insure the proper use, control, and disposal of all property, equipment, computer hardware, and furniture, acquired pursuant to funding under this Agreement."

Item (b) Paragraph 2 is deleted.

Section 11.0: TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Section 11 is modified to Add Paragraphs 2 through 14 to read:

"Title VI/Non-Discrimination Assurances: This Agreement is subject to the provisions of Title VI of the Civil Rights Act and the MPO is herein notified of such. Additionally, the consultant shall include the following information in each of its agreements/contracts associated with the WP.

The Arizona Department of Transportation, in accordance with the provisions of Title VI of the

Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

For scopes of work that are as a covenant running with the land, in any deed from the US effecting or recording a transfer of real property, structures, use, or improvements requires Appendix B of the ADOT Plan. For any scopes of work that are as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments; for the transfer of real property acquired or improved, and for the construction, use of, or access to space on over or under real property, requires Appendix C and Appendix D of the ADOT Plan.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration or Federal Transit Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration or Federal Transit Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration or Federal Transit Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration or Federal Transit Administration, may determine to be appropriate, including, but not limited to:

a. withholding payments to the contractor under the contract until the contractor complies; and/or

b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient or the Federal Highway Administration or Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin): and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and Low Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et. seq.)"

Section 12.0: DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Paragraph 4 is modified to read: "ADOT and the MPO shall prepare and retain all records in accordance with the federal and state requirements, including but not limited to 23 CFR 420 and 2 CFR 200 et seq."

Section 13.0: DEBARMENT/SUSPENSION

Paragraph 1 is modified to read: "The MPO is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs pursuant to 2 CFR 200.212."

Paragraph 2 is deleted

Section 14.0: PROHIBITED INTERESTS

Section 14 is modified to Add Paragraph 5 to read: "Pursuant to 2 CFR 1201.112, the MPO shall disclose in writing any potential conflict of interest to ADOT, who shall inform the Federal awarding agency in accordance with applicable Federal awarding agency policy."

Section 28.0: FTA CERTIFICATIONS AND ASSURANCES

Paragraph 4 is modified to read: "SUBRECIPIENT also understands and agrees that these Certifications and Assurances are pre-award requirements, generally required by Federal law or regulation, and do not include all Federal requirements that may apply. The FTA Master Agreement for Federal FY 2015, <http://www.fta.dot.gov/documents/21-Master.pdf>, contains a list of most of those requirements."

Section 30.0: MISCELLANEOUS PROVISIONS

Item (2) is modified to read: "This Agreement shall become effective July 1, 2015 upon its execution by all Parties hereto and shall remain in force and effect through June 30 of the following year, unless terminated, cancelled or extended as otherwise provided herein. By mutual written amendment, this Agreement may be extended for supplemental periods of up

to a maximum of zero (0) months. The Department reserves the right to unilaterally extend the period for thirty-one (31) days beyond the stated expiration date."

Exhibit A: Reimbursement Request

Exhibit A: Reimbursement Request is modified to add the certification requirement of 2 CFR 200.415: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

Arizona Department of Transportation Multimodal Planning Division											
REIMBURSEMENT REQUEST											
Report No.	Contract No.	Project No.	Purchase Order No.	For ADOT Use Only							
Vendor's Invoice No.	Invoice Date	Period or Final Invoice									
Invoice Period											
Name of Project											
Amount Payment to											
Date Work Started	Estimated Completion Date										
Roll Over of Prior Year Apportionment Amt.	Current Fiscal Year Apportionment										
SUMMARY OF WORK FOR WHICH PAYMENT IS REQUESTED											
Work Element Number	Work Element Title	Select Funding Type	Apportionment Amount	Select Appropriate Non-Federal Match	TOTAL BUDGET	PROR INVOICES	NEW COSTS	Withholding %	Amount	Amount Due	
1		1	0	0	0	0	0	0%	0	0	
2		2	0	0	0	0	0	0%	0	0	
3		3	0	0	0	0	0	0%	0	0	
4		4	0	0	0	0	0	0%	0	0	
5		5	0	0	0	0	0	0%	0	0	
6		6	0	0	0	0	0	0%	0	0	
7		7	0	0	0	0	0	0%	0	0	
8		8	0	0	0	0	0	0%	0	0	
9		9	0	0	0	0	0	0%	0	0	
TOTALS	% Billed = 0000%	1	0	0	0	0	0	0%	0	0	
Match Due From Vendor Y/N		Match Due From ADOT Y/N		Match Due From Other Y/N		Non-Federal Match Required Over Life of Grant		Non-Federal Match Provided Prior Periods		Non-Federal Match Provided This Invoice	
										Total Amount Due to Vendor This Invoice (Amount Due - Match P. Required)	
* Only One Funding Source Per Invoice and Per Progress Billing Report											
* Only One Non-Federal Match Ratio per Invoice and Per Progress Billing Report											
All Invoices and Progress Billing Reports must be emailed to: MPDInvoice@azdot.gov											
Certification required pursuant to 2 CFR 200.415: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).											
Submitter Approval:						MPD F&A Approval to Pay:					
User: _____						User: _____					
Signed: _____						Signed: _____					
ADOT F&A Approval:						MPD F&A Notes:					
User: _____											
Signed: _____											

Except as amended by this Amendment 4, the Original Agreement, Amendment 1, Amendment 2, and Amendment 3 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION

STATE OF ARIZONA
Department of Transportation

By

Gerald W. Nabours, Mayor
City of Flagstaff

By

Michael Kies, Assistant Director
Multimodal Planning Division

Date

Date

APPROVAL OF THE FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION

I have reviewed the above referenced Amendment Four to Agreement JPA 11-085, between the ARIZONA DEPARTMENT OF TRANSPORTATION, MULTIMODAL PLANNING DIVISION and FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION, and declare this agreement to be in proper form and within the powers and authority granted to the CITY OF FLAGSTAFF ACTING FOR AND ON BEHALF OF THE FLAGSTAFF METROPOLITAN PLANNING ORGANIZATION under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this _____ day of _____, 2015

Attorney for the City of Flagstaff
Acting on behalf of the Flagstaff Metropolitan Planning Organization

**Page reserved for
AG Determination Letter**

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

PREFACE

Except as the Federal Transit Administration (FTA or We) determines otherwise in writing, before FTA may award Federal transit assistance (funding or funds) in the form of a Federal Grant, Cooperative Agreement, Loan, Line of credit, or Loan Guarantee to support a public transportation Project, an Authorized Representative (You) of the Project Sponsor (Applicant) must select certain Certifications and Assurances required by Federal law or regulation. Among other things, the Authorized Representative must be duly authorized by the Applicant to sign these Certifications and Assurances and bind its compliance. You, as your Applicant's Authorized Representative, must select all Certifications and Assurances that your Applicant must provide to support its application(s) for FTA funding during Federal fiscal year (FY) 2015.

We request that you read each Certification and Assurance and select those that will apply to all Projects for which your Applicant might seek FTA funding. As required by Federal law and regulation, only if you select adequate Certifications and Assurances on your Applicant's behalf, may FTA award Federal funding for its Project.

We have consolidated our Certifications and Assurances into twenty-four (24) Groups. At a minimum, you must select the Assurances in Group 01 on your Applicant's behalf. If your Applicant requests more than \$100,000 in Federal funding, you must also select the "Lobbying" Certification in Group 02, unless your Applicant is an Indian tribe, Indian organization, or a tribal organization. Depending on the nature of your Applicant and its Project, you may also need to select some Certifications and Assurances in Groups 03 through 24. Instead of selecting individual Groups of Certifications and Assurances, however, you may make a single selection that will encompass all twenty-four (24) Groups of Certifications and Assurances that apply to all our programs.

FTA, your Applicant, and you, as your Applicant's Authorized Representative, understand and agree that not every provision of these twenty-four (24) Groups of Certifications and Assurances will apply to every Applicant or every Project FTA funds, even if you make a single selection encompassing all twenty-four (24) Groups. Nor will every provision of all Certifications and Assurances within a single Group apply if that provision does not apply to your Applicant or its Project. The type of Project and Applicant will determine which Certifications and Assurances apply.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and each Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities each member will perform and the extent to which each will be responsible for compliance with the Certifications and Assurances that you select on its behalf, and whether the member will serve as a Recipient, Subrecipient, or Third Party Contractor.

It is important that your Applicant and you also understand that these Certifications and Assurances are pre-award requirements, generally imposed by Federal law or regulation, and do not include all Federal requirements that may apply to it or its Project. Our FTA Master Agreement for Federal FY 2015, MA(21), is available at <http://www.fta.dot.gov>, and contains a list of most of those requirements.

We expect you to submit your Applicant's FY 2015 Certifications and Assurances and its applications for funding in TEAM-Web. You must be registered in TEAM-Web to submit the FTA FY 2015 Certifications and Assurances on its behalf. The TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of the "View/Modify Recipients" page contains fields for selecting among the twenty-four (24) Groups of Certifications and Assurances and a designated field for selecting all twenty-four (24) Groups of Certifications and Assurances. If FTA agrees that you cannot submit your Applicant's FY 2015 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Groups of Certifications and Assurances that it is submitting.

Be aware that these Certifications and Assurances have been prepared in light of:

- *FTA's latest authorization legislation, Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, June 6, 2012,*
- *FTA's authorizing legislation in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply,*
- *The Highway and Transportation Funding Act of 2014, Pub. L. 113-159, August 8, 2014, and*
- *Continuing Appropriations Resolution, 2015, Pub. L. 113-164, September 19, 2014 and other Appropriations Acts or Continuing Resolutions funding the Department of Transportation during Fiscal Year 2015.*

With certain exceptions, Projects financed in FY 2015 with funds appropriated or made available for FY 2012 or a previous fiscal year must be in compliance with the requirements for that type of Project in effect during the fiscal year for which the funding was derived, except as superseded by MAP-21 cross-cutting requirements that apply.

GROUP 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide funding for your Applicant's Project, in addition to any other Certifications and Assurances that you must select on your Applicant's behalf, you must

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

also select the Certifications and Assurances in Group 01, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 01 that does not apply will not be enforced.

01.A. Certification and Assurance of Authority of the Applicant and Its Authorized Representative.

You certify and affirm that both you, as your Applicant's Authorized Representative, and your Applicant's attorney, who is authorized to represent your Applicant in legal matters, who sign these Certifications, Assurances, and Agreements, may undertake the following activities on its behalf, in compliance with applicable State, local, or Indian tribal laws and regulations, and its by-laws or internal rules:

1. Execute and file its application for Federal funds,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute the Grant Agreement, Cooperative agreement, Loan, Loan Guarantee, or Line of Credit, for which the Applicant is seeking FTA funding,
4. Comply with applicable Federal laws and regulations, and
5. Follow applicable Federal guidance.

01.B. Standard Assurances.

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable Federal statutes and regulations to carry out any FTA-funded Project,
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for its Project, including the FTA Master Agreement incorporated by reference and made part of the latest amendment to that Grant Agreement or Cooperative Agreement,
3. It recognizes that Federal laws and regulations may be amended from time to time and those amendments may affect Project implementation,
4. It understands that Presidential executive orders and Federal guidance, including Federal policies and program guidance, may be issued concerning matters affecting it or its Project,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

5. It agrees that the most recent Federal laws, regulations, and guidance will apply to its Project, except as FTA determines otherwise in writing,
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the funding for those programs was appropriated:
 - a. In some instances, FTA has determined that Federal statutory or regulatory program and eligibility requirements for FY 2012 or a specific previous fiscal year, except as superseded by applicable MAP-21 cross-cutting requirements, apply to:
 - (1) New Grants and Cooperative Agreements, and
 - (2) New Amendments to Grants and Cooperative Agreements that:
 - (a) Have been awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, or
 - (b) May be awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, but
 - b. In other instances, FTA has determined that MAP-21 requirements will apply to Federal funds appropriated or made available for FY 2012 or a previous fiscal year, and
 - c. For all FTA-funded Projects, the following MAP-21 cross-cutting requirements supersede and apply in lieu of conflicting provisions of previous Federal law and regulations:
 - (1) Metropolitan and Statewide and Nonmetropolitan Transportation Planning,
 - (2) Environmental Review Process,
 - (3) Public Transportation Agency Safety Plans,
 - (4) Transit Asset Management Provisions (and Asset Inventory and Condition Reporting),
 - (5) Costs Incurred by Providers of Public Transportation by Vanpool,
 - (6) Revenue Bonds as Local Match,
 - (7) Debt Service Reserve,
 - (8) Government's Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance,
 - (9) Private Sector Participation,
 - (10) Bus Testing,
 - (11) Buy America,
 - (12) Corridor Preservation,
 - (13) Rail Car Procurements,
 - (14) Veterans Preference/Employment,
 - (15) Alcohol and Controlled Substance Testing, and
 - (16) Other provisions as FTA may determine.¹

¹ More information about these matters appears in the Federal Transit Administration, "Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and FTA FY 2013 Apportionments, Allocations, Program Information and Interim Guidance," 77 Fed. Reg. 663670, Oct. 16, 2012.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

01.C. Intergovernmental Review Assurance.

(This assurance in Group 01.C does not apply to an Indian tribe, an Indian organization or a tribal organization that applies for funding made available for 49 U.S.C. 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for Federal funding to the appropriate State and local agencies for intergovernmental review, to facilitate compliance with those regulations.

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws and regulations so that no person in the United States will be denied the benefits of, or otherwise be subjected to, discrimination in any U.S. DOT or FTA-funded program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age:
 - a. Federal transit laws, specifically 49 U.S.C. 5332(prohibiting discrimination on the basis of race, color, religion, national origin, sex, disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d,
 - c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*,
 - d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - e. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - g. Any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated,
2. It will comply with Federal guidance implementing Federal nondiscrimination laws and regulations, except to the extent FTA determines otherwise in writing,
3. As required by 49 CFR 21.7:
 - a. It will comply with 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 in the manner:
 - (1) It conducts each Project,
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Project,
 - b. This assurance applies to its entire Project and to all parts of its facilities, as well as its facilities operated to implement its Project,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request,
- d. If it transfers FTA-funded real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the Federal funding is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits,
- e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance,
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit laws, 49 U.S.C. 5332,
- g. It will comply with applicable Federal guidance issued to implement Federal nondiscrimination requirements, except as FTA determines otherwise in writing,
- h. It will extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
 - (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or
 - (6) Other participant in its Project, except FTA and the Applicant (that later becomes the Recipient),
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party agreement, including each:
 - (1) Subagreement at any tier,
 - (2) Property transfer agreement,
 - (3) Third party contract or subcontract at any tier,
 - (4) Lease, or
 - (5) Participation agreement, and
- j. The assurances you have made on its behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (1) Federal funding is extended to its Project,
 - (2) Its Project property is used for a purpose for which the Federal funding is extended,
 - (3) Its Project property is used for a purpose involving the provision of similar services or benefits,
 - (4) It retains ownership or possession of its Project property, or
 - (5) FTA may otherwise determine in writing, and
4. As required by U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27, specifically 49 CFR 27.9, and consistent with 49 U.S.C. 5307(c)(1)(D)(ii), you assure that:
 - a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Group 01.D Assurance, of which compliance is a condition of approval or extension of any FTA funding awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program, and
 - b. In any program or activity receiving or benefiting from Federal funding that U.S. DOT administers, no qualified people with a disability will, because of their disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

01.E. Suspension and Debarment Certification.

On behalf of your Applicant, you certify that:

1. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 - (1) Debarred,
 - (2) Suspended,
 - (3) Proposed for debarment,
 - (4) Declared ineligible,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (5) Voluntarily excluded, or
 - (6) Disqualified,
- b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 - (2) Violation of any Federal or State antitrust statute, or
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
- c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 1.E.2.b of this Certification,
- d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
- e. If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Group 01.E Certification, it will promptly provide that information to FTA,
- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (1) Equals or exceeds \$25,000,
 - (2) Is for audit services, or
 - (3) Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor:
 - (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - (a) Debarred from participation in its federally-funded Project,
 - (b) Suspended from participation in its federally-funded Project,
 - (c) Proposed for debarment from participation in its federally-funded Project,
 - (d) Declared ineligible to participate in its federally-funded Project,
 - (e) Voluntarily excluded from participation in its federally-funded Project, or
 - (f) Disqualified from participation in its federally-funded Project, and
- 5. It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Group 01.E Certification.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

01.F. U.S. OMB Assurances in SF-424B and SF-424D.

The assurances in Group 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in Federal laws and regulations.

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
 - a. For every Project described in any application it submits for Federal funding, it has adequate resources to properly plan, manage, and complete its Project, including the:
 - (1) Legal authority to apply for Federal funding,
 - (2) Institutional capability,
 - (3) Managerial capability, and
 - (4) Financial capability (including funds sufficient to pay the non-Federal share of Project cost),
 - b. As required, it will give access and the right to examine Project-related materials to entities or individuals including, but not limited to the:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and
 - (3) State, through an appropriate authorized representative,
 - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance, and
 - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest, or personal gain, or
 - (2) The appearance of a personal or organizational conflict of interest or personal gain,
2. *Project Specifics.* On behalf of your Applicant, you assure that:
 - a. Following receipt of an FTA award, it will begin and complete Project work within the time periods that apply,
 - b. For FTA-funded construction Projects:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms with the approved plans and specifications,
 - (3) It will include a covenant to assure nondiscrimination during the useful life of its Project in its title to federally-funded real property,
 - (4) To the extent FTA requires, it will record the Federal interest in the title to FTA-funded real property or interests in real property, and
 - (5) It will not alter the site of the FTA-funded construction Project or facilities without permission or instructions from FTA by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities, and
 - c. It will furnish progress reports and other information as FTA or the State may require, and
- 3. *Statutory and Regulatory requirements.* On behalf of your Applicant, you assure that:
 - a. It will comply with all Federal statutes relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) The prohibitions against discrimination on the basis of sex, as provided in:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25,
 - (3) The prohibitions against discrimination on the basis of age in federally-funded programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 – 6107,
 - (4) The prohibitions against discrimination on the basis of disability in federally-funded programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794,
 - (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*,
 - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*,
 - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*,
 - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. 290dd – 290dd-2, and
 - (10) The nondiscrimination provisions of any other statute(s) that may apply to its Project,
 - b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. 4601 *et seq.*, and 49 U.S.C. 5323(b), regardless of whether Federal funding has been provided for any of the real property acquired for Project purposes:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (1) It will provide for fair and equitable treatment of any displaced persons, or any persons whose property is acquired as a result of federally-funded programs,
- (2) It has the necessary legal authority under State and local laws and regulations to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. 4601 *et seq.*, as specified by 42 U.S.C. 4630 and 4655, and
 - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR 24.4, and
- (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24,
 - (b) As required by 42 U.S.C. 4622, 4623, and 4624, and 49 CFR part 24, if an FTA-funded Project results in displacement, it will provide fair and reasonable relocation payments and assistance to:
 - 1 Displaced families or individuals, and
 - 2 Displaced corporations, associations, or partnerships,
 - (c) As provided by 42 U.S.C. 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
 - 1 Displaced families and individuals, and
 - 2 Displaced corporations, associations, or partnerships,
 - (d) As required by 42 U.S.C. 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals,
 - (e) It will:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin,
 - (f) It will be guided by the real property acquisition policies of 42 U.S.C. 4651 and 4652,
 - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will provide Federal funding for its eligible costs for providing payments for those expenses, as required by 42 U.S.C. 4631,
 - (h) It will execute the necessary implementing amendments to FTA-funded third party contracts and subagreements,
 - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, relating to any FTA-funded Project involving relocation or land acquisition, and
 - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions,
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures,
- d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by Federal funding of:
 - (1) The National Research Act, as amended, 42 U.S.C. 289 *et seq.*, and
 - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11,
- e. It will, to the extent applicable, comply with the labor standards and protections for federally-funded Projects of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. 3141 – 3144, 3146, and 3147,
 - (2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and 40 U.S.C. 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*,
- f. It will comply with any applicable environmental standards prescribed to implement Federal laws and executive orders, including, but not limited to:
 - (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. 4321 note,
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. 7606 note,
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. 4321 note,
 - (4) Following the evaluation of flood hazards in floodplains provisions of Executive Order No. 11988, 42 U.S.C. 4321 note,
 - (5) Complying with the assurance of Project consistency with the approved State management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 – 1465,
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 – 7671q,
 - (7) Complying with the protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6,
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 – 1544,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (9) Complying with the environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation Project, as required by 49 U.S.C. 303 (also known as “Section 4f”),
- (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 – 1287, and
- (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f,
 - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 – 469c, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note,
- g. To the extent applicable, it will comply with the following Federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported by Federal funding:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4,
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR 41.117(d), before accepting delivery of any FTA-funded building,
- i. It will comply with, and assure that its Subrecipients located in special flood hazard areas comply with, section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), by:
 - (1) Participating in the Federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more,
- j. It will comply with:
 - (1) The Hatch Act, 5 U.S.C. 1501 – 1508, 7324 – 7326, which limits the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds, including a Federal Loan, Grant Agreement, or Cooperative Agreement, and
 - (2) 49 U.S.C. 5323(l)(2) and 23 U.S.C. 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA funding appropriated or made available for 49 U.S.C. chapter 53 and 23 U.S.C. 142(a)(2) to whom the Hatch Act does not otherwise apply,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- k. It will perform the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*,
 - (2) U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and
 - (3) Most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT,
- l. It will comply with all other Federal laws or regulations that apply, and
- m. It will follow Federal guidance governing it and its Project, except to the extent that FTA has expressly approved otherwise in writing.

GROUP 02. LOBBYING.

Before FTA may provide funding for a Federal Grant or Cooperative Agreement exceeding \$100,000 or a Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance exceeding \$150,000, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Lobbying Certifications in Group 02, unless your Applicant is an Indian Tribe exempt from the requirements of 31 U.S.C. 1352 or FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 02 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

- 1. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110:
 - a. The lobbying restrictions of this Certification apply to its requests:
 - (1) For \$100,000 or more in Federal funding for a Grant or Cooperative Agreement, and
 - (2) For \$150,000 or more in Federal funding for a Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
 - b. Your Certification on its behalf applies to the lobbying activities of:
 - (1) It,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier,
- 2. To the best of your knowledge and belief:
 - a. No Federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance,
 - b. It will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with its instructions, if any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
 - (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
 - c. It will include the language of this Certification in the award documents for all subawards at all tiers, including, but not limited to:
 - (1) Third party contracts,
 - (2) Subcontracts,
 - (3) Subagreements, and
 - (4) Other third party agreements under a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance,
3. It understands that:
 - a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award funding for a transaction covered by 31 U.S.C. 1352, including a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
4. It also understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

GROUP 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

We request that you select the Procurement and Procurement Systems Certification in Group 03 on behalf of your Applicant, especially if your Applicant is a State, local, or Indian tribal government with a certified procurement system, as provided in 49 CFR 18.36(g)(3)(ii).

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certification in Group 03 that does not apply will not be enforced.

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all Federal laws and regulations in accordance with applicable Federal guidance, except to the extent FTA has approved otherwise in writing.

GROUP 04. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide funding for a Project that involves the acquisition of public transportation property or operation of public transportation facilities or equipment, in addition to other Certifications you must select on your Applicant's behalf, you must also select the Private Property Protections Assurances in Group 04.A and enter into the Agreements in Group 04.B and Group 04.C on behalf of your Applicant, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurances and Agreements in Group 04 that does not apply will not be enforced.

04.A. Private Property Protections.

If your Applicant is a State, local government, or Indian tribal government and seeks FTA funding to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Group 04.A apply to your Applicant, except as FTA determines otherwise in writing.

To facilitate FTA's ability to make the findings required by 49 U.S.C. 5323(a)(1), on behalf of your Applicant, you assure that:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

1. It has or will have:
 - a. Determined that the funding is essential to carrying out a Program of Projects as required by 49 U.S.C. 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under State or local laws to the company for any franchise or property acquired, and
2. It has completed the actions described in the preceding section 1 of this Group 04.A Certification before it:
 - a. Acquires the property or an interest in the property of a private provider of public transportation, or
 - b. Operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

04.B. Charter Service Agreement.

If your Applicant seeks FTA funding to acquire or operate transit facilities or equipment, the Charter Service Agreement in Group 04.B applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," 49 CFR part 604, specifically 49 CFR 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA's "Charter Service" regulations apply as follows:
 - a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired by Recipients of FTA funding for transportation Projects with Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - b. FTA's charter service restrictions extend to:
 - (1) Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. 133 or 142, or
 - (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - (2) Any Third Party Participant that receives Federal funding derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. 133 or 142, or

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any Tier, and
 - (4) Other Third Party Participant in its Project,
 - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives Federal public transportation assistance appropriated or made available for its Project will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. 5323(d) and (g),
 - (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. 5323(d) and (g),
 - (3) Any other Federal Charter Service regulations, or
 - (4) Federal guidance, except as FTA determines otherwise in writing,
 - e. You and your Applicant agree that the latest Charter Service Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
 - f. You and your Applicant agree that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives FTA funding appropriated or made available for its Project that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (a) Conducting charter operations prohibited by Federal transit laws and FTA's Charter Service regulations, or
 - (b) Otherwise violating its Charter Service Agreement it has elected in its latest annual Certifications and Assurances, and
 - (2) These corrective measures and remedies may include:
 - (a) Barring it or any Third Party Participant operating public transportation under the Project that has provided prohibited charter service from receiving FTA funds,
 - (b) Withholding an amount of Federal funds as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply, and
- 2. In addition to the exceptions to the restrictions in FTA's Charter Service Regulations, FTA has established the following additional exceptions to those restrictions:
 - a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5307 and 5311, to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under repealed 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that FTA funding for those program purposes only,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5310, to be used for New Freedom activities that would have been eligible for assistance under repealed 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that FTA funding for those program purposes only, and
- c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally-funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. 5323(r).

04.C. School Bus Agreement.

If your Applicant seeks FTA funding to acquire or operate transit facilities or equipment, the School Bus Agreement in Group 04.C applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g), on behalf of your Applicant, you are entering into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations restrict school bus operations using facilities and equipment acquired with Federal funding derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53,
 - b. 23 U.S.C. 133 or 142, or
 - c. Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
- 2. FTA's school bus operations restrictions extend to:
 - a. Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - b. Any Third Party Participant that receives Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
- 3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Other Third Party Participant in the Project,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant involved in your Applicant's Project, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(f) and (g),
 - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g),
 - c. Any other Federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing,
5. You and your Applicant agree that the latest School Bus Agreement you have selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further Federal transit funds, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

GROUP 05. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide funding for a Project to acquire rolling stock for use in revenue service or to acquire a new bus model, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Rolling Stock Reviews and Bus Testing Certifications in Group 05, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 05 that does not apply will not be enforced.

05.A. Rolling Stock Reviews.

If your Applicant seeks FTA funding to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Group 05.A apply to your Applicant, except as FTA determines otherwise in writing.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

On behalf of your Applicant, you certify that when procuring rolling stock for use in revenue service:

1. It will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(m), and
 - b. FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 CFR part 663, and
2. As provided in 49 CFR 663.7:
 - a. It will conduct or cause to be conducted the required pre-award and post-delivery reviews, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

05.B. Bus Testing.

If your Applicant seeks FTA funding to acquire a new bus model, the Bus Testing Certifications in Group 05.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. Bus Testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA’s Bus Testing regulations, and it will comply with:
 - a. 49 U.S.C. 5318, and
 - b. FTA regulations, “Bus Testing,” 49 CFR part 665, to the extent these regulations are consistent with 49 U.S.C. 5318,
2. As required by 49 CFR 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration:
 - a. It will not spend any Federal funds appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA’s bus testing facility, and
 - (2) It has received a copy of the test report prepared on that new bus or new bus model, and
 - b. It will not authorize final acceptance of that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA’s bus testing facility, and
 - (2) It has received a copy of the test report prepared on that new bus or new bus model,
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
 - b. Minimum safety performance standards established under 49 U.S.C. 5329, and
4. After FTA regulations authorized by 49 U.S.C. 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the “Pass/Fail” standard established by regulation.

GROUP 06. DEMAND RESPONSIVE SERVICE.

If your Applicant is a public entity, operates demand responsive service, and seeks FTA funding to acquire a non-rail vehicle that is not accessible, before FTA may provide funding for that Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Demand Responsive Service Certifications in Group 06, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 06 that does not apply will not be enforced.

As required by U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37, specifically 49 CFR 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities, and
2. Viewed in its entirety, its service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

GROUP 07. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide funding for an Intelligent Transportation Systems (ITS) Project or a Project in support of an ITS Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Intelligent Transportation Systems Assurances in Group 07, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurances in Group 07 that does not apply will not be enforced.

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation Systems (ITS) Project is defined to include any Project that, in whole or in part, finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture," and
2. Assure that, as provided in 23 U.S.C. 517(d), any ITS Project it undertakes funded with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. 517(d)(2).

GROUP 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may provide funding appropriated or made available for 49 U.S.C. chapter 53 to support interest, or financing, or leasing costs of any Project financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, or another program as FTA may specify, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 08, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 08 that does not apply will not be enforced.

08.A. Interest and Financing Costs.

If your Applicant intends to use FTA funding to support interest or any other financing costs for Projects funded by the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, or another program as FTA may specify, the Interest and Financing Costs Certifications in Group 08.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
 - a. It is eligible to receive Federal funding for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, to the extent FTA may require, and
2. It will comply with the same favorable financing cost provisions for:
 - a. Urbanized Area Formula Grants Projects,
 - b. Projects under Full Funding Grant Agreements,
 - c. Projects with Early Systems Work Agreements,
 - d. Fixed Guideway Capital Investment Projects funded by previous FTA enabling legislation,
 - e. State of Good Repair Projects,
 - f. Bus and Bus Facilities Projects, and
 - g. Low or No Emission Vehicle Development Projects.

08.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks FTA funding to acquire capital assets through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Group 08.B applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, specifically 49 CFR 639.15(b)(1) and 49 CFR 639.21, if your Applicant acquires any capital asset through a lease financed with Federal funding appropriated or made available for 49 U.S.C. chapter 53:

1. It will not use Federal funding appropriated or made available for public transportation Projects eligible under 49 U.S.C. chapter 53 or any other applicable law to finance the cost of leasing any capital asset until:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- a. It performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset, and
- b. It completes these calculations before the later of:
 - (1) Entering into the lease, or
 - (2) Receiving a capital grant for the asset, and
2. It will not enter into a capital lease for which FTA can provide only incremental Federal funding unless it has adequate financial resources to meet its future lease obligations if Federal funding is not available.

GROUP 09. TRANSIT ASSET MANAGEMENT PLAN AND PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.

Before FTA may provide funding appropriated or made available for 49 U.S.C. chapter 53 to support your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 09, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 09 that does not apply will not be enforced.

09.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Group 09.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it and each Subrecipient will:

1. Follow Federal guidance when issued that implements transit asset management system provisions of 49 U.S.C. 5326, except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations when issued that implement the transit asset management provisions of 49 U.S.C. 5326.

09.B. Public Transportation Agency Safety Plan.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State government, local government, or any other operator of a public transportation system,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

the Public Transportation Safety Plan Certifications in Group 09.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it will:

1. Follow the Federal guidance, when issued, that will implement the safety plan provisions of 49 U.S.C. 5329(d), except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. 5331 and its implementing regulations, before FTA may provide funding for your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 10, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 10 that does not apply will not be enforced.

As required by 49 U.S.C. 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR 655.83, on behalf of your Applicant, including a State Applicant, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program,
2. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. 5331, and
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or Third Party Contractors to which these testing requirements apply reside in a State that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have complied

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

or will comply with the Federal controlled substance testing requirements of 49 CFR part 655.

GROUP 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY), AND CAPITAL INVESTMENT PROGRAM IN EFFECT BEFORE MAP-21 BECAME EFFECTIVE.

The Certifications in Group 11 apply to the New Starts, Small Starts, or Core Capacity Programs, 49 U.S.C. 5309.

Before FTA may provide funding for your Applicant's New Starts, Small Starts, or Core Capacity Project in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 11, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 11 that does not apply will not be enforced.

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following capabilities to carry out its proposed Project(s), including the safety and security aspects of the Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

GROUP 12. STATE OF GOOD REPAIR PROGRAM.

Certain Certifications and Assurances listed previously are required for the State of

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Good Repair Program funding under 49 U.S.C. 5337.

Before FTA may provide funding for your Applicant's Project under the State of Good Repair Program, 49 U.S.C. 5337, for your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 12, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurance in Group 12 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

GROUP 13. FIXED GUIDEWAY MODERNIZATION GRANT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Fixed Guideway Modernization Grant Program, former 49 U.S.C. 5309 in effect in FY 2012 or a previous fiscal year, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 13, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certification in Group 13 that does not apply will not be enforced.

Former 49 U.S.C. 5309(b)(2) and former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, require the following Certifications for Fixed Guideway Modernization Grant Program funding; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304.

GROUP 14. BUS AND BUS FACILITIES FORMULA GRANTS PROGRAM AND BUS AND BUS-RELATED EQUIPMENT AND FACILITIES GRANT PROGRAM (DISCRETIONARY).

The Certifications in Group 14 are required for funding under:

- 14.A. *The Bus and Bus Facilities Formula Grants Program, 49 U.S.C. 5339, as amended by MAP-21, and*
- 14.B. *The Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary), former 49 U.S.C. 5309(b)(3) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 14, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 14 that does not apply will not be enforced.

14.A. Bus and Bus Facilities Formula Grants Program

If your Applicant seeks FTA funding for its Project under the Bus and Bus Facilities Formula Grants Program, 49 U.S.C. 5339, the Certifications in Group 14.A below apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for Bus and Bus Facilities Formula Grants Program funding are required by 49 U.S.C. 5339(b), which states that “[t]he requirements of section 5307 apply to recipients of grants made under this section [5339]”; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment financed under 49 U.S.C. 5339, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C. 5339, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - a. Has made or will make available to the public information on amounts of its funding available to it under 49 U.S.C. 5339,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other Federal Government sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. Has made or will make the final Program of Projects available to the public,
7. As required by 49 U.S.C. 5307(d), it:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It will comply with:
- a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
9. It has a locally developed process to solicit and consider public comment before:
- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

14.B. Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary).

If your Applicant seeks FTA funding for its Project under the Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary), former 49 U.S.C. 5309 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 14.B below apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary) funding are required by former 49 U.S.C. 5309(c)(2), which applies the requirements of former 49 U.S.C. 5307(d)(1)(A), (B), (C), and (H), in effect in FY 2012 or a previous fiscal year to this Program, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

- 1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those Project(s):
 - a. Legal capacity,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- b. Financial capacity, and
- c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately, and
- 4. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304.

GROUP 15. URBANIZED AREA FORMULA GRANTS PROGRAMS, PASSENGER FERRY GRANT PROGRAM, AND JOB ACCESS AND REVERSE COMMUTE (JARC) FORMULA GRANT PROGRAM.

The Certifications in Group 15 are required for funding under:

- 15.A. *The Urbanized Area Formula Grants Program financed with funds appropriated or made available for 49 U.S.C. 5307, as amended by MAP-21, which among other things, authorizes funding for Job Access and Reverse Commute (JARC) Projects and Project Activities,*
- 15.B. *The Urbanized Area Formula Grants Program financed with funds appropriated or made available for former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply,*
- 15.C. *The Passenger Ferry Grant Program financed with funds appropriated or made available for 49 U.S.C. 5307(h), as amended by MAP-21, and*
- 15.D. *The Job Access and Reverse Commute (JARC) Formula Grant Program financed with funds appropriated or made available for former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 15, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 15 that does not apply will not be enforced.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

15.A. Urbanized Area Formula Grants Program under MAP-21.

If your Applicant seeks FTA funding for its Project under the Urbanized Area Formula Grants Program, 49 U.S.C. 5307, as amended by MAP-21, the Certifications in Group 15.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Urbanized Area Formula Grants Program funding appropriated or made available in FYs 2013, 2014, and 2015 are required by 49 U.S.C. 5307(c)(1); therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment financed under 49 U.S.C. 5339, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C. 5307, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - a. Has made or will make available to the public information on amounts of its funding available to it under 49 U.S.C. 5307,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other Federal Government sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. Has made or will make the final Program of Projects available to the public,
7. As required by 49 U.S.C. 5307(d), it:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. As required by 49 U.S.C. 5307(c)(1)(H), it will comply with:
- a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
9. As required by 49 U.S.C. 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation,
10. Each fiscal year:
- a. It will assure that at least one (1) percent of the amount of the 49 U.S.C. 5307 funding apportioned to its urbanized area must be expended for public transportation security Projects as described in 49 U.S.C. 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Providing emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other Project intended to increase the security and safety of an existing or planned public transportation system, or
 - b. The Designated Recipients in its urbanized area certify that such expenditures for transportation security Projects are not necessary (Information about the intentions of your Designated Recipients in your Applicant's urbanized area must be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when it submits its Urbanized Area Formula Grants Program application in TEAM-Web),
11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
- a. Each fiscal year, it will ensure that at least one (1) percent of the amount apportioned to its urbanized area is spent for Associated Transit Improvements, as defined in 49 U.S.C. 5302(1),

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
 - (1) A list of its Associated Transit Improvement Projects or Project Activities during that Federal fiscal year using those 49 U.S.C. 5307 funds, or
 - (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the funding apportioned to the area for Associated Transit Improvement Projects or Project Activities, or have included the same information in a separate report attached in TEAM-Web, and
 - c. The report of its Associated Transit Improvement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and
12. It will comply with the final Federal regulations, when issued, that implement the safety requirements of 49 U.S.C. 5329(d).

B. Urbanized Area Formula Grants Program before MAP-21 Became Effective.

You must select the Certification in Group 15.B if your Applicant seeks funding under the Urbanized Area Formula Grants Program financed with funds appropriated or made available for former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year. In administering this program, MAP-21 cross-cutting requirements supersede inconsistent former requirements.

The following Certifications for the Urbanized Area Formula Grants Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply instead; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

- 1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately,
- 4. It will ensure that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any elderly individual,
 - b. Any handicapped individual, as described in 49 CFR part 27,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, it will comply with the following provisions as amended by MAP-21:
 - a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - c. “Buy America” under 49 U.S.C. 5323(j),
 - d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - f. “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
 - a. Has or will make available to the public information on amounts available to it under 49 U.S.C. 5307 and the Program of Projects it proposes to undertake,
 - b. Will develop or has developed, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be financed,
 - c. Will publish or has published a proposed Program of Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the Applicant or Recipient’s performance,
 - d. Will provide or has provided an opportunity for a public hearing in which to obtain the views of citizens on the proposed Program of Projects,
 - e. Will ensure or has ensured that the proposed Program of Projects provides for the coordination of public transportation services assisted under 49 U.S.C. 5336 with transportation services assisted from other Federal Government sources,
 - f. Will consider or has considered comments and views received, especially those of private transportation providers, in preparing the final Program of Projects, and
 - g. Will make or has made the final Program of Projects available to the public,
8. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
9. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
10. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation,
11. Each fiscal year:
 - a. It will assure that at least one (1) percent of the 49 U.S.C. 5307 funding apportioned to its urbanized area must be spent for public transportation security

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Projects (limited to capital Projects if it serves an urbanized area with a population of 200,000 or more), including:

- (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other Project intended to increase the security and safety of an existing or planned public transportation, or
- b. It will certify that such expenditures for transportation security Projects are not necessary (Information about its intentions must be recorded in the “Security” tab page of the TEAM-Web “Project Information” window when it submits its Urbanized Area Formula Grants Program application in TEAM-Web),
12. If it serves an urbanized area with a population of at least 200,000 individuals:
- a. Each fiscal year, it will ensure that at least one (1) percent of the amount apportioned to its urbanized area is spent for Transit Enhancements, as defined in former 49 U.S.C. 5302(a)(15),
 - b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
 - (1) A list of its Transit Enhancement Project Activities during that Federal fiscal year using those former 49 U.S.C. 5307 funds, or
 - (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the amount of funding that must be made available to them for Transit Enhancements or have included the same information in a separate report attached in TEAM-Web, and
 - c. The report of its or the Designated Recipients’ Transit Enhancement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and
13. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

C. Passenger Ferry Grant Program.

If your Applicant seeks FTA funding for its Project under the Passenger Ferry Grant Program, 49 U.S.C. 5307(h), the Certifications in Group 15.C apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Passenger Ferry Grant Program funding are required by 49 U.S.C. 5307(h) and (c)(1); therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- b. Financial capacity, and
- c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately,
- 4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a Project financed under 49 U.S.C. 5307(h), the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- 5. When carrying out a procurement under 49 U.S.C. 5307(h), it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
- 6. As required by 49 U.S.C. 5307(d), it:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
- 7. As required by 49 U.S.C. 5307(c)(1)(H), it will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
- 8. As required by 49 U.S.C. 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
- 9. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

D. Job Access and Reverse Commute (JARC) Formula Grant Program.

If your Applicant seeks FTA funding for its Project under the Job Access and Reverse Commute (JARC) Formula Grant Program, former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 15.D apply to your Applicant, except as FTA determines otherwise in writing.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

1. The following Certifications for the Job Access and Reverse Commute (JARC) Formula Grant Program are required by former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will make awards of JARC funding on a competitive basis following:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(A), and
 - (2) A statewide solicitation for applications for JARC funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(B) or (C),
 - b. Any allocations to Subrecipients of JARC funding authorized by former 49 U.S.C. 5316 will be distributed on a fair and equitable basis,
 - c. As required by former 49 U.S.C. 5316:
 - (1) The Projects it has selected or will select for former 49 U.S.C. 5316 funding must be derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated, and
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Human service providers, and
 - (c) Participation by the public,
 - d. Before it transfers funds to a Project funded by former 49 U.S.C. 5336, that Project has been or will have been coordinated with private nonprofit providers of services as required under former 49 U.S.C. 5316(g)(2),
 - e. Before using funds apportioned for Projects serving an area other than that for which funding was apportioned under former 49 U.S.C. 5316:
 - (1) The State's chief executive officer, or his or her designee, will have certified that all the JARC program objectives of former 49 U.S.C. 5316 are being met in the area from which the funding would be derived, and
 - (2) If the State has a statewide program for meeting the JARC program objectives of former 49 U.S.C. 5316, the funds can be used for Projects anywhere in the State, and
 - f. The requirements of former 49 U.S.C. 5307 will apply to the JARC Program, authorized by former 49 U.S.C. 5316, and
2. The following Certifications for the JARC Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) The legal capacity,
 - (2) The financial capacity, and
 - (3) The technical capacity,
- b. It has or will have, and will require each Subrecipient to have satisfactory continuing control over the use of Project equipment and facilities,
- c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
- d. To the extent applicable, it will ensure, and will require each Subrecipient to ensure, that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5316 the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any elderly individual,
 - (2) Any handicapped individual, as described in 49 CFR part 27,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- e. When carrying out a procurement under former 49 U.S.C. 5316, it will comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m), and
 - (5) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
- f. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- g. It:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5316,
 - (2) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds when needed,
- h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
- i. It has or will have, and will require each Subrecipient to have, a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- j. To the extent applicable, it will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 16. SENIORS/ELDERLY/INDIVIDUALS WITH DISABILITIES/ NEW FREEDOM PROGRAMS.

The Certifications in Group 16 are required for funding under:

- 16.A. *The Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, financed or to be financed with funds appropriated or made available for 49 U.S.C. 5310, as amended by MAP-21, which among other things authorizes funding for New Freedom Projects and Project Activities,*
- 16.B. *The Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, and*
- 16.C. *The New Freedom Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 16, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 16 that does not apply will not be enforced.

16.A. Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, 49 U.S.C. 5310, as amended by MAP-21, the Certifications in Group 16.A apply to your Applicant, except as FTA determines otherwise in writing.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. 5310; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. Each of its Subrecipients is:
 - (1) A private nonprofit organization, or
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program,
 - b. It will comply with the following Project selection and planning requirements:
 - (1) The Projects it has selected or will select for funding appropriated or made available for 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public,
 - (3) The transportation Projects to assist in providing transportation services for seniors and individuals with disabilities are included in a Program of Projects,
 - (4) A Program of Projects in the preceding subsection 1.b(3) of this Group 16.A Certification is or will be submitted annually to FTA, and
 - (5) To the maximum extent feasible, the services funded by 49 U.S.C. 5310 will be coordinated with transportation services funded by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services,
 - c. As required by 49 U.S.C. 5310(e)(2)(B), it certifies that if it allocates funds received under 49 U.S.C. 5310, to Subrecipients, it will have allocated those funds on a fair and equitable basis,
 - d. It will transfer a facility or equipment financed with funding appropriated or made available for a grant under 49 U.S.C. 5310, to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, only if:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (1) The recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. 5310,
- e. As required by 49 U.S.C. 5310(b)(2), it will use at least fifty-five (55) percent of the funds on capital Projects to meet the special needs of seniors and disabled, and
- f. The requirements of 49 U.S.C. 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, authorized by 49 U.S.C. 5310, and
- 2. FTA has determined certain requirements of 49 U.S.C. 5307, to be appropriate for which some require Certifications; therefore, as specified under 49 U.S.C. 5307(c)(1), it certifies that:
 - a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain, and will require each Subrecipient to maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will, and will require each Subrecipient to comply with the:
 - (1) General Provisions of 49 U.S.C. 5323, and
 - (2) Third Party Contract Provisions of 49 U.S.C. 5325,
 - e. It has complied or will comply with, and will require each Subrecipient to comply with:
 - (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304, and
 - f. To the extent applicable, it will comply with, and require its Subrecipients to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

16.B. Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program, former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, the Certifications in Group 16.B apply to

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

your Applicant, except as FTA determines otherwise in writing.

1. The following Certifications for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:
 - a. Each of your State Applicant's Subrecipients is:
 - (1) A private nonprofit organization, if the public transportation service that would undertake public transportation capital Project(s) planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities is:
 - (a) Unavailable,
 - (b) Insufficient, or
 - (c) Inappropriate, or
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are not any nonprofit organizations readily available in the area to provide public transportation capital Projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities,
 - b. The Projects your State Applicant has selected or will select for funding appropriated or made available for former 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
 - (1) Locally developed, and
 - (2) Coordinated,
 - c. That public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (1) Elderly individuals,
 - (2) Individuals with disabilities,
 - (3) Representatives of public, private, and nonprofit transportation providers,
 - (4) Representatives of human services providers, and
 - (5) Other members of the public,
 - d. If your State Applicant allocates funds received under former 49 U.S.C. 5310 to Subrecipients, your State Applicant will have allocated those funds on a fair and equitable basis,
 - e. The Program of Projects your State Applicant has submitted or will submit contains or will contain an assurance that the Program provides for the maximum feasible coordination of transportation services funded by former 49 U.S.C. 5310 with transportation services funded by other Government sources,
 - f. If your State Applicant transfers former 49 U.S.C. 5310 funds to another Project funded under 49 U.S.C. 5336 in accordance with former 49 U.S.C. 5310(b)(2),

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- the Project for which the funds are requested has been coordinated with private nonprofit providers of service under former 49 U.S.C. 5310, and
- g. It will comply with the requirements of former 49 U.S.C. 5307 that FTA determined will apply to the former Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program,
2. The following Certifications for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5307(d)(1); therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:
- a. Your State Applicant and each of its Subrecipients have or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. Your State Applicant and each Subrecipient has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. Your State Applicant and each of its Subrecipients will maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5310, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
 - e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
 - f. Your State Applicant:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have, the amount of funds required for the local share by former 49 U.S.C. 5310(c)(2),
 - (2) Will provide, and as necessary will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds when needed,
 - g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and
 - h. To the extent applicable, your State Applicant will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

16.C. New Freedom Program.

If your Applicant seeks FTA funding for its Project under the New Freedom Program, former 49 U.S.C. 5317, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, the Certifications in Group 16.C apply to your Applicant, except as FTA determines otherwise in writing.

1. Former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year requires the following Certification for the New Freedom Program; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will make awards of New Freedom funding on a competitive basis after conducting:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5317(d)(1), or
 - (2) A statewide solicitation for applications for New Freedom funding in compliance with former 49 U.S.C. 5317(d)(2),
 - b. Any allocations to Subrecipients of New Freedom funding authorized by former 49 U.S.C. 5317 will be distributed on a fair and equitable basis,
 - c. It will comply with the following Project selection and planning requirements:
 - (1) The Projects it has selected or will select for funding appropriated or made available for that program were derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Representatives of public, private, and nonprofit human services providers, and
 - (c) Participation by the public,
 - d. Before it transfers funds to a Project funded by former 49 U.S.C. 5311(c), former 49 U.S.C. 5336, or both:
 - (1) The funding to be transferred may be made available only to Projects eligible for funding appropriated or made available for former 49 U.S.C. 5317, and
 - (2) It will have consulted with responsible local officials and publicly owned operators of public transportation in each area for which the amount to be transferred was originally awarded, and
 - e. The requirements of former 49 U.S.C. 5307 and 5310, as determined by FTA, will apply to the New Freedom Program, authorized by former 49 U.S.C. 5317, and
2. The following Certifications for the New Freedom Program are required by former 49 U.S.C. 5307(d)(1) and 5310; therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
- b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
- c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
- d. When carrying out a procurement under former 49 U.S.C. 5317, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
- e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- f. It:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have the amount of funds required for the local share required by former 49 U.S.C. 5317(g),
 - (2) Will provide, and as necessary will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary will require each Subrecipient to provide, the local share funds when needed,
- g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and
- h. To the extent applicable, it will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 17. RURAL/OTHER THAN URBANIZED AREAS/APPALACHIAN DEVELOPMENT/OVER-THE-ROAD BUS ACCESSIBILITY PROGRAMS.

The Certifications in Group 17 are required for funding under:

- 17.A. *The Formula Grants for Rural Areas Program financed with funding appropriated or made available for 49 U.S.C. 5311(b), as amended by MAP-21, (separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a Public Transportation on Indian*

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Reservations Project financed with funding made available for 49 U.S.C. 5311(c)(1), as amended by MAP-21),

- 17.B. The Formula Grants for Other Than Urbanized Areas Program financed with funding appropriated or made available for former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, (separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a "Tribal Transit" Project financed with funding made available for former 49 U.S.C. 5311(c)(1) in effect in FY 2012 or a previous fiscal year),*
- 17.C. The Appalachian Development Public Transportation Assistance Program financed with funding appropriated or made available for 49 U.S.C. 5311(c)(2), as amended by MAP-21, and*
- 17.D. The Over-the-Road Bus Accessibility Program financed with funding appropriated or made available for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 17, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 17 that does not apply will not be enforced.

17.A. Formula Grants for Rural Areas Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for Rural Areas Program, 49 U.S.C. 5311, as amended by MAP-21, the Certifications in Group 17.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each State or State organization serving as your Applicant for funding appropriated or made available for the Rural Areas Formula Project authorized by 49 U.S.C. 5311(b). On its behalf, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its State program has provided for a fair distribution of Federal funding appropriated or made available for 49 U.S.C. 5311(b) within the State, including Indian reservations,
5. Its program provides or will provide the maximum feasible coordination of public transportation service funded by 49 U.S.C. 5311(b) with transportation service funded by other Federal sources,
6. Its Projects in its Formula Grants for Rural Areas Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. It:
 - a. Has or will have the amount of funds required for the local share, as required by 49 U.S.C. 5311(g),
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It may transfer a facility or equipment acquired using a grant under 49 U.S.C. 5311(b) to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. 5311, and
9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its 49 U.S.C. 5311 funding available that fiscal year to develop and support intercity bus transportation within the State, with eligible activities, including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
 - b. It will provide to FTA a Certification from the Governor of the State that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
 - (2) The State's intercity bus service needs are being met adequately.

17.B. Formula Grants for Other Than Urbanized Areas Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for Other

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Than Urbanized Areas Program, former 49 U.S.C. 5311 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 17.B apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each State or State organization serving as your Applicant for funding appropriated or made available for the Formula Grants for Other Than Urbanized Areas Project authorized by former 49 U.S.C. 5311(b)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. On its behalf, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its State program required under former 49 U.S.C. 5311(b)(2) has provided for a fair distribution of Federal funding appropriated or made available for former 49 U.S.C. 5311(b) within the State, including Indian reservations,
5. Its State program required under former 49 U.S.C. 5311(b)(2) provides or will provide the maximum feasible coordination of public transportation service funded by former 49 U.S.C. 5311(b) with transportation service funded by other Federal sources,
6. Its Projects in its Formula Grants for Other than Urbanized Areas Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. It:
 - a. Has or will have the amount of funds required for the local share, as required by former 49 U.S.C. 5311(g),
 - b. Will provide the local share funds sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It may transfer a facility or equipment acquired using a grant under former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under former 49 U.S.C. 5311, and
9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its former 49 U.S.C. 5311 funding available for that fiscal year to develop and support intercity bus transportation within the State with eligible activities, including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus shelters,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (3) Joint-use stops and depots,
- (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
- (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
- b. It will provide to FTA a Certification from the Chief Executive Officer of the State that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
 - (2) The State's intercity bus service needs are being met adequately.

17.C. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks FTA funding for its Project under the Appalachian Development Public Transportation Assistance Program, 49 U.S.C. 5311(c)(2), the Certification in Group 17.C applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, in addition to other Certifications and Assurances it must provide, if it is unable to use its funding made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. 5311(c)(2)(D), it may use the funding for a highway Project only after:

- 1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
- 2. It approves for such use in writing, and
- 3. In approving the use, it determines that local transit needs are being addressed.

17.D. Over-the-Road Bus Accessibility Program.

If your Applicant seeks FTA funding for its Project under the Over-the-Road Bus Accessibility Program, section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, the Assurances in Group 17.D apply to your Applicant, except as FTA determines otherwise in writing.

Your Applicant assures that it will comply with all applicable Federal statutes and regulations, and follow applicable Federal guidance in carrying out any Over-the-Road Bus Accessibility Project supported by the its Grant Agreement with FTA. It acknowledges that it is under a continuing obligation to comply with the terms and conditions of the Grant Agreement with FTA for its Project. It understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the Project.

It assures that the Federal requirements for the Over-the-Road Bus Accessibility Program during FY 2012 will apply to the Project, except as FTA determines otherwise in writing. Certifications and Assurances for funding to be awarded under this program in FY 2015

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

are included in these FTA Certifications and Assurances for FY 2015. Each Applicant must submit Group 01 (“Required Certifications and Assurances for Each Applicant”). Each Applicant seeking more than \$100,000 in Federal funding must provide both Group 01, and Group 02, (“Lobbying”).

GROUP 18. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

The Certifications in Group 18 are required for funding under:

- *The Public Transportation on Indian Reservations Formula Program, 49 U.S.C. 5311(c)(1), as amended by MAP-21, and*
- *The Public Transportation on Indian Reservations Discretionary Program, 49 U.S.C. 5311(c)(1).*

Before FTA may provide funding for your Applicant’s Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 18, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 18 that does not apply will not be enforced.

FTA has established terms and conditions for Tribal Transit Program grants financed with funding appropriated or made available for 49 U.S.C. 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its Project will achieve maximum feasible coordination with transportation service funded by other Federal sources,
5. It will:
 - a. Have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- and Local Governments,” 49 CFR part 18, specifically 49 CFR 18.36, or
- b. Inform FTA promptly that its procurement system does not comply with those U.S. DOT regulations,
- 6. It will comply with Buy America under 49 U.S.C. 5323(j), and
 - 7. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Group 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Group 05.B (Bus Testing),
 - c. Group 06 (Demand Responsive Service),
 - d. Group 07 (Intelligent Transportation Systems), and
 - e. Group 10 (Alcohol and Controlled Substances Testing).

GROUP 19. LOW OR NO EMISSION/CLEAN FUELS GRANT PROGRAMS

The Certifications in Group 19 are required for funding under:

- 19.A. *The Low or No Emission Vehicle Deployment Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, and*
- 19.B. *The Clean Fuels Grant Program, former 49 U.S.C. 5308, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant’s Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 19, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 19 that does not apply will not be enforced.

19.A. Low or No Emission Vehicle Deployment.

If your Applicant seeks FTA funding for its Project under the Low or No Emission Vehicle Development Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, the Certifications and Assurances in Group 19.A apply to your Applicant, except as FTA determines otherwise in writing.

Section 5312(d)(5)(C)(i) of title 49, United States Code requires the following Certifications for Low or No Emission Vehicle Deployment Program funding

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

appropriated or made available for MAP-21; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours, for transportation using or involving a facility or equipment funded for its Project, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and cannot use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under this Program, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has:
 - a. Informed or will inform the public of the amounts of its funding available under this Program,
 - b. Developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. Provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Assured or will assure that the proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. 5336 with federally-funded transportation services supported by other Federal Government sources,
 - f. Considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- g. Made or will make the final list of Projects available to the public,
- 7. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
- 8. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- 9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
- 10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

19.B. Clean Fuels Grant Program.

If your Applicant seeks FTA funding for its Project under the Clean Fuels Grant Program, former 49 U.S.C. 5308, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 crosscutting requirements that apply, the Certifications and Assurances in Group 19.B apply to your Applicant, except as FTA determines otherwise in writing.

Former 49 U.S.C. 5307(d)(1), except as superseded by MAP-21 cross-cutting requirements that apply, requires the following Certifications for Clean Fuels Grant Program funding appropriated or made available for former 49 U.S.C. 5308 in effect in FY 2012 or a previous fiscal year; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

- 1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain the Project equipment and facilities adequately,
- 4. It will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving Project facilities or equipment supported under former 49 U.S.C. 5308:
 - a. Elderly individuals,
 - b. Individuals with disabilities,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

5. When carrying out a procurement under former 49 U.S.C. 5308, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - c. “Buy America” under 49 U.S.C. 5323(j),
 - d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - f. “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304,
9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 20. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

Before FTA may provide funding for your Applicant’s Project under the Paul S. Sarbanes Transit in Parks Program, former 49 U.S.C. 5320, in effect in FY 2012 or a previous fiscal year for your Applicant’s Project, except as superseded by MAP-21 requirements that apply, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 20, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 20 that does not apply will not be enforced.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

1. The following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. 5320 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will consult with the appropriate Federal land management agency during the planning process, and
 - b. The requirements of former 49 U.S.C. 5307, as determined by FTA, will apply to the Parks Program, authorized by former 49 U.S.C. 5320, and
2. FTA has determined certain requirements of former 49 U.S.C. 5307 to be appropriate for the Parks Program, of which some require Certifications; therefore, as specified under former 49 U.S.C. 5307(d)(1), except as superseded by MAP-21 cross-cutting requirements that apply, you certify that:
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain the Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5320, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
 - e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
 - f. It has complied or will comply with the requirements of former 49 U.S.C. 5307(c), and specifically, it:
 - (1) Has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. 5320, and the Projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, Projects to be financed,
 - (3) Has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
- (5) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
- (6) Has made or will make the final list of Projects available to the public,
- g. It:
 - (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304, and
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

GROUP 21. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the State Safety Oversight Grant Program, 49 U.S.C. 5329(e), as amended by MAP-21, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 21, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 21 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

- 1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately,
- 4. When carrying out a procurement for its Project, it will comply with the:

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- a. Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, 49 CFR part 18,
 - b. General Provisions of 49 U.S.C. 5323, and
 - c. Third Party Contract Requirements of 49 U.S.C. 5325,
5. As required by 49 U.S.C. 5329(e)(6)(C), it:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds only from sources approved by FTA, and will not be met by:
 - (1) Any Federal funds,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the local share funds when needed,
6. It meets the applicable requirements of 49 CFR part 659, Rail Fixed Guideway Systems: State Safety Oversight, and
7. It has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. 5329(e) and is adequate to promote the purposes of 49 U.S.C. 5329.

GROUP 22. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Public Transportation Emergency Relief Program, 49 U.S.C. 5324, as amended by MAP-21, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Assurance in Group 22, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurance in Group 22 that does not apply will not be enforced.

As required by 49 U.S.C. 5324(d), on behalf of your Applicant, you assure that it will comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for funding appropriated or made available for the Public Transportation Emergency Relief Program.

GROUP 23. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Expedited

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Project Delivery Pilot Program, section 20008(b)(5)(D) of MAP-21, in addition to any other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certification in Group 23, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

To the extent that the Certification in Group 23 does not apply, it will not be enforced.

On behalf of your Applicant, you certify that its existing public transportation system or the public transportation system that is the subject of the Project is in a state of good repair, as required by section 20008(b)(5)(D) of MAP-21.

GROUP 24. INFRASTRUCTURE FINANCE PROGRAMS.

The Certifications in Group 24 apply to the following programs:

- 24.A. The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program, 23 U.S.C. 601-609, except as superseded by MAP-21 cross-cutting requirements that apply, and*
- 24.B. The State Infrastructure Banks (SIB) Program, 23 U.S.C. 610, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide credit assistance under TIFIA for your Applicant's Project or funding for your Applicant to deposit in a SIB, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 24, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 24 that does not apply will not be enforced.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

24.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks FTA funding for its Project under the TIFIA Program, the Certifications and Assurances in Group 24.A applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. 5323(o), that Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. 601 – 609.

1. To comply with 49 U.S.C. 5307, specifically 49 U.S.C. 5307(d)(1), on its behalf, you certify that:
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain its Project equipment and facilities adequately,
 - d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a TIFIA-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
 - e. When carrying out a TIFIA-funded procurement, it will comply with:
 - (1) 49 U.S.C. 5323, and
 - (2) 49 U.S.C. 5325,
 - f. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - (1) Has made or will make available to the public information on amounts of its TIFIA funding request(s),
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
- (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
- (5) Has ensured or will ensure that the proposed Program of Projects provides for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and U.S. DOT under TIFIA with federally-funded transportation services supported by other Federal Government sources,
- (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
- (7) Has made or will make the final Program of Projects available to the public,
- g. It:
 - (1) Has or will have at least (twenty) 20 percent of the TIFIA net Project costs required for the local share,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. It will comply with:
 - (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d),
- 2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest and any other financing costs incurred in connection with its Project that must be in compliance with those requirements unless:
 - a. It is eligible to receive Federal funding for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
- 3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*),
- 4. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 5321 *et seq.*, and will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Project prior to obligation of funds, and
- 5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d), when required.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

24.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a State and seeks FTA funding under the SIB Program to deposit in its SIB, the Certifications and Assurances in Group 24.B applies to your State and its Project, except as FTA determines otherwise in writing.

On behalf of the State organization serving as your Applicant for funding for its SIB Program, you certify and assure that:

1. It will comply with the following applicable Federal laws establishing the various SIB programs since 1995:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or
 - d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181,
2. It will comply with or follow the Cooperative Agreement establishing the State's SIB program between:
 - a. It and FHWA, FRA, and FTA, or
 - b. It and FHWA and FTA,
3. It will comply with or follow the Grant Agreement that provides FTA funding for the SIB and is between it and FTA, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The Cooperative Agreement establishing the State's SIB Program, or
 - f. The Grant Agreement with FTA,
4. As required by 49 U.S.C. 5323(o), Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, as amended by MAP-21, apply to any Project under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. 610 (or any support from 23 U.S.C. 601 – 609),
5. As required by 49 U.S.C. 5323(o) and 49 U.S.C. 5307(d)(1):
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain its Project equipment and facilities adequately,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a SIB-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) An individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) An individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- e. When carrying out a procurement under a SIB-financed Project, it will comply with the:
 - (1) General Provisions of 49 U.S.C. 5323, and
 - (2) Third Party Contract Provisions of 49 U.S.C. 5325,
- f. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - (1) Has made or will make available to the public information on amounts of its funding requested under the SIB program,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - (5) Has ensured or will ensure that the proposed Program of Projects provide for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and the SIB Program with federally-funded transportation services supported by other Federal Government sources,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - (7) Has made or will make the final Program of Projects available to the public,
- g. It:
 - (1) Has or will have the amount of funds required for the local share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- h. It will comply with the:
 - (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d),
- 2. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest and any other financing costs incurred in connection with its Project unless:
 - a. It is eligible to receive Federal funding for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require, and
- 3. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d).

Selection and Signature Page(s) follow.

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Michelle D'Andrea, City Attorney
Date: 05/26/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution Number 2015-23 and Ordinance No. 2015-13: A resolution and ordinance of the Flagstaff City Council adopting by reference minor amendments to the City Code.

RECOMMENDED ACTION:

At the Council Meeting of June 2, 2015

- 1) Read Resolution No. 2015-23 by title only
- 2) City Clerk reads Resolution No. 2015-23 by title only (if approved above)
- 3) Read Ordinance No. 2015-13 by title only for the first time
- 4) City Clerk reads Ordinance No. 2015-13 by title only for the first time (if approved above)

At the Council Meeting of June 16, 2015

- 5) Adopt Resolution No. 2015-23
- 6) Read Ordinance No. 2015-13 by title only for the final time
- 7) City Clerk reads Ordinance No. 2015-13 by title only for the final time (if approved above)
- 8) Adopt Ordinance No. 2015-13 on June 16, 2015.

Executive Summary:

Council may revise the City Code to:

1. Provide an efficient process for correcting the Regional/General Plan;
2. Repeal regulations of Lake Mary because the City lacks jurisdiction;
3. Allow the Clerk to format and make technical corrections to the City Code;
4. Repeal provisions regulating damage to public ways because Arizona statutes are sufficient; and
5. Provide a penalty for unlawful parking in a municipal lot or parking contrary to signs or regulations.

Financial Impact:

None.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 7) Address key issues and processes related to the implementation of the Regional Plan
- 8) Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments

Has There Been Previous Council Decision on This:

City Council discussed these potential changes in a work session on May 12, 2015. The Planning and Zoning Commission recommended in favor of these changes at their meeting on April 22, 2015. They asked for clarification that the General Plan is the same as the Regional Plan. They also asked for a definition of the term "Planning Agency."

Options and Alternatives:

Amend the City Code as recommended or as Council sees fit.

Background/History:

The City Attorney's Office occasionally asks Council clean-up some provisions of the City Code. This section will provide brief information about the proposed changes.

Title Eleven: General Plans and Subdivisions

Our Comprehensive Planning Manager, Sara Dechter, plans to proceed with some corrections to the Regional Plan. The City Code does not have an efficient process for making corrections. Ms. Dechter will also soon bring to Council the La Plaza Vieja Neighborhood Plan. The City Code provisions regarding specific plans do not always contemplate neighborhood plans. Some changes to the Code are proposed to harmonize the Code with the typical process for a neighborhood plan.

Title Nine: Traffic

The regulation that prohibits illegal parking in City parking lots and prohibits parking contrary to City traffic signs has an incorrect reference to another section of the City Code. The reference must be corrected to enable our municipal judges to enforce the regulation.

Title Eight: Public Ways and Property

In 1952 the City Council adopted regulations covering fishing, hunting and all other forms of public recreation within an area around both Lakes Mary. We no longer have a basis for exercising this type of jurisdiction over the area. So, the regulations should be repealed. The United States Department of Agriculture and Arizona Game and Fish have a regulatory scheme for fishing, hunting and public recreation within this area.

Title Six: Police Regulations

Over a period from 1894 to 1964 the City council adopted ordinances regulating damage to public ways and property. The same behavior is regulated by state statute. The City regulations do not enhance the state statutes, therefore the City regulations should be repealed.

Title One: Administrative

The City Council typically gives the City Clerk authority to make technical corrections to ordinances. This authority is written into each ordinance that Council adopts. Rather than asking for this authority in every ordinance, it would be more efficient to allocate this authority to the City Clerk in the City Code.

Attachments: Res. 2015-23
 Ord. 2015-13

RESOLUTION NO. 2015-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK ENTITLED THE “2015 MINOR AMENDMENTS TO THE FLAGSTAFF CITY CODE” AND DECLARING AN EFFECTIVE DATE

RECITALS:

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provision of the City Code by reference to a public record, providing that the adopting ordinance is published in full.

ENACTMENTS:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1.

That certain document known as “2015 Minor Amendments to the Flagstaff City Code”, attached hereto as Exhibit A, three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the City Clerk.

SECTION 2.

This resolution shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

2015
Minor Amendments
to the Flagstaff City Code

TITLE ELEVEN: GENERAL PLANS AND SUBDIVISIONS

Chapter 11-10: General Plans

Division 11-10.10: Applicable to All Plan	10.10-1
11-10.10.010 Purpose	10.10-1
11-10.10.020 Common Procedures	10.10-1
Division 11-10.20: Comprehensive Updates, New Elements, and Major Amendments to the General Plan	10.20-1
11-10.20.010 Comprehensive Plan Updates	10.20-1
11-10.20.020 Major Plan Amendments and New Elements	10.20-2
Division 11-10.30: Specific Plans	10.30-1
11-10.30.010 Purpose	10.30-1
11-10.30.020 Elements of a Specific Plan	10.30-1
11-10.30.030 Specific Plan Adoption/Amendment	10.30-2

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Division 11-10.10: Applicable to All

Sections:

- 11-10.10.010 Purpose
- 11-10.10.020 Common Procedures

11-10.10.010 Purpose

The purpose of Chapter 11-10 is to provide procedures for the adoption and amendment of the City of Flagstaff's General Plan as it relates to land within the corporate boundaries of the City.

11-10.10.020 Common Procedures

A. Applicability

The common procedures provided in this Section apply to major and minor amendments to the General Plan, and to the adoption of or an amendment to a Specific Plan. Additional procedures and requirements specific to major plan amendments are provided in Division 11-10.20 (Comprehensive Updates, New Elements and Major Amendments to the General Plan).

B. Initiation of General Plan Amendments

Except for Comprehensive Plan Updates (see Section 11-10.20.010), which may be initiated solely by the Planning Agency or the Council, requests for amendment of the General Plan may be made by one or more of the following:

1. Planning Agency

The Planning Section shall review the General Plan on an annual basis and may initiate amendments to the General Plan in accordance with A.R.S. § 9-461.07.

2. Council or Planning Commission

The Council or the Planning Commission may initiate an amendment to the map or to the text of the General Plan.

3. Property Owners

A property owner or an agent authorized in writing may apply for an amendment to the map or to the text of the General Plan governing the subject property.

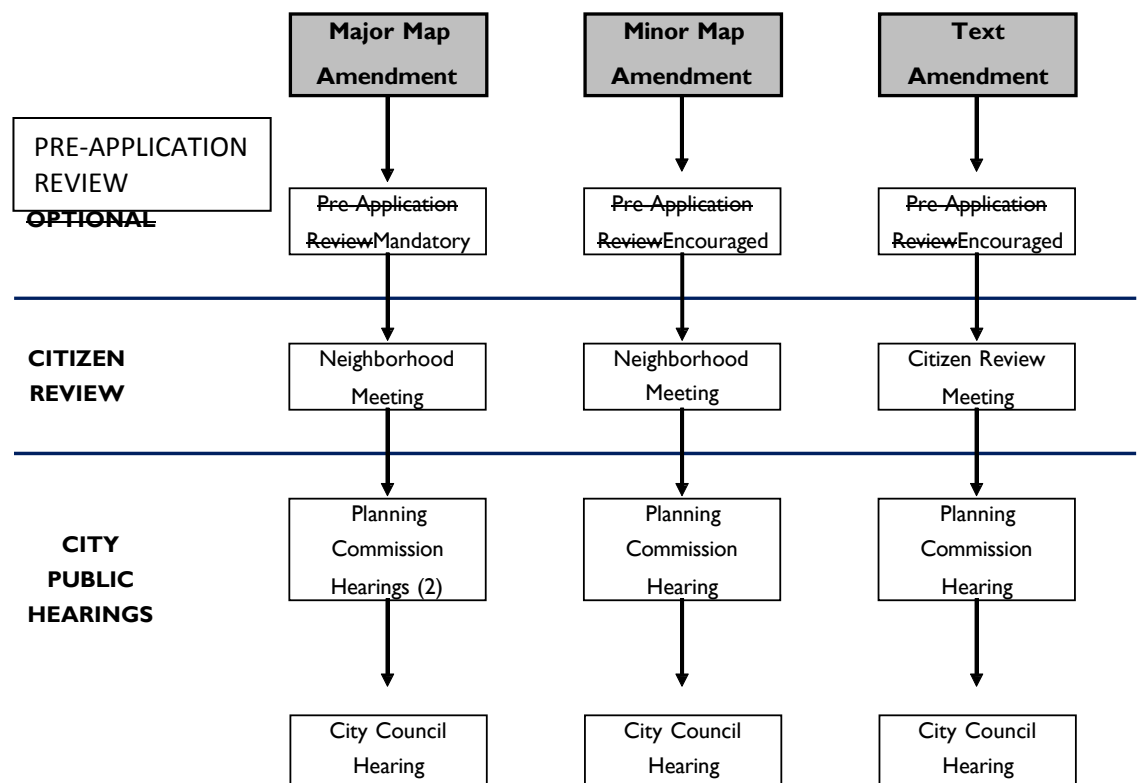
C. Pre-Application Review

All applicants intending to amend a map or the text of the General Plan are encouraged to participate in a pre-application review with the Director pursuant to the procedures set forth in City Code Title 10, Zoning Code, Section 10-20.30.040 (Pre-Application Review by Director).

D. Citizen Review

1. All applications for General Plan text or major or minor map amendments and the adoption of or an amendment to a Specific Plan, shall be subject to a citizen review process that provides effective, early, and continuous public participation ~~for major and minor amendments of the General Plan~~ from all geographic and economic areas of the City. The citizen review process includes a neighborhood meeting ~~and/or~~ a citizen review work session with the Planning Commission as set forth below and as illustrated in Figure A. Additional requirements for citizen outreach for certain new developments for which a General Plan amendment is required are provided in City Code Title 10, Zoning Code, Section 10-20.30.070 (Additional Requirements for Citizen Outreach). The Director may establish additional procedures for the citizen review process.
2. When processing a minor map amendment to correct the General Plan which is initiated by the Planning Agency or Council, only the procedures established in Section 11-10.10.020.D.4(Citizen Review Work Session) shall be required if:
 - a. The amendment is for map corrections, or;
 - b. The amendment is for a factual update based on a change in other policy or regulations (such as the establishment of a new State Historic District).

Figure A: Review Process for Map and Text Amendments



2.3. Neighborhood Meeting

The citizen review process for a major or minor map amendment, site or area specific amendment, including a Specific Plan, shall at a minimum consist of a neighborhood meeting conducted in accordance with the procedures set forth below or a citizen review meeting with the Planning Commission for a text amendment. The applicant is responsible for all costs associated with the neighborhood meeting. The Director may waive the requirement for a neighborhood meeting if it can be demonstrated that there are a limited number of property owners adjacent to the subject property and that other techniques for informing them of the application would be more effective, such as direct mailing with information on the application or one-on-one meetings with affected property owners.

- a. A plan for how the applicant intends to conduct the neighborhood meeting shall be submitted to and approved by the Director in accordance with the Review Schedule on file with Planning Section. The neighborhood meeting plan shall include the following information:
 - (1) Property owners, citizens, jurisdictions and public agencies within 300 feet of the site or area affected by the application and all residents of the subject property, or a larger area as deemed necessary to satisfy the intent of this Section by the Director;
 - (2) Proposed notification methods (e.g. mail, email, newspaper notice, posting of the subject property, etc.) for persons and organizations identified in Subsection (1) above;
 - (3) Form, structure and agenda of the meeting (e.g. town meeting, workshop, charrette or other appropriate public outreach technique);
 - (4) Opportunities for those potentially affected parties to discuss and provide input on the applicant's proposal;
 - (5) Location, date and time of the neighborhood meeting; and,
 - (6) Methods to keep the Director informed of the status and results of the neighborhood meeting.
- b. In compliance ~~accordance~~ with the Review Schedule on file with the Planning Section, the applicant shall provide notification as follows:
 - (1) Except for applications for amendments that are City-wide in nature or applications under 11-10.10.020.D.2, ~~the~~ the applicant shall notify by first-class mail all property owners of record within 300 feet of the subject property and residents of the subject property, unless the General Plan, a decision of the Director, or other applicable adopted City policy requires notification within a

larger area;

(2) ~~±~~ Except for applications for amendments that are City-wide in nature or applications under 11-10.10.020.D.2, the applicant shall notify by first-class mail all Homeowners Associations (HOAs) within 1,000 feet of the subject property; ~~as well as all~~

~~(2)(3)~~ The applicant shall notify by first-class mail any ~~organizations, associations and other~~ interested persons or groups whose names are on the Registry of Interested Persons or Groups established in City Code Title 10, Zoning Code, Section 10-20.30.080. ~~That have registered their names and addresses with the City as being interested in receiving such;~~

~~(3)(4)~~ The Director may expand the notification area if it is determined that the potential impact of the development extends beyond the required notification boundary;

~~(4)(5)~~ The notice shall set forth the purpose and substance of the proposed application, and the time, date and place of the neighborhood meeting. A copy of the notice shall be submitted to the Director; and

~~(5)(6)~~ Except for applications for amendments that are City-wide in nature or applications under 11-10.10.020.D.2, ~~the~~ applicant shall install a minimum four by eight foot sign on the property in a location or locations clearly visible from a public right-of-way to adjacent residents setting forth the purpose, time, date and place of the neighborhood meeting, with an attached information tube containing copies of the meeting notice.

c. **City Staff Involvement**

City staff may attend the neighborhood meeting. The role of City staff will be limited to discussing the review process for the development and explaining the opportunities for the public to be engaged in the review process, except when the Planning Agency, City-~~ers staff~~, or Council ~~or Planning Commission~~ are the applicant.:

d. **Record of Proceedings**

The applicant shall create a written summary of the meeting, which shall be filed with the Director. This written summary will be attached to the Director's report to the Planning Commission and Council. At a minimum, the report shall include the following information:

(1) Certification, on a form established by the Director, that the meeting was noticed and conducted in compliance with requirements of this Section;

(2) Details of techniques the applicant used to involve the public, including:

(a) Dates and locations of neighborhood meetings;

- (b) Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters, and other correspondence;
 - (c) A copy of the mailing list, and a summary of where residents, property owners, and potentially affected citizens receiving notices, newsletters or other written materials were located;
 - (d) The number and names of people that participated in the process based on the sign-in sheet for the meeting; and
 - (e) A dated photograph of the sign installed in compliance with Subsection C.2.b.(5) above.
- (3) A summary of concerns, issues, and problems expressed during the neighborhood meeting, including:
- (a) The substance of the concerns, issues and problems; and
 - (b) The applicant's response to the comments received at the public meeting. The applicant's responses shall be included on the site plan, illustrative plan, other planning document and/or in an associated report. If public comments are not included in any of these documents, an explanation why they were not included must be provided.

3.4. Citizen Review Work Session

- a. A citizen review session shall be held at a work session of the Planning Commission scheduled not less than five days and no more than 14 days prior to the public hearing at the Planning Commission for the consideration of any proposed map or text amendments to the General Plan or a Specific Plan. Landowners and other citizens potentially affected by the proposed text amendment shall have an opportunity to address the Planning Commission on the proposal.
- b. Notice of the citizen review session shall be given to landowners, citizens potentially affected by the proposed text amendments, and any person or group whose names are on the Registry of Interested Persons or Groups established in City Code Title 10, Zoning Code, Section 10-20.30.080. ~~Who has specifically requested notice regarding the application,~~ at least 10 days prior to the Planning Commission work session. The notice shall state the date, time and place of the citizen review session and shall include a general explanation of the proposed text or map amendment. Any form of notice used by the Director for the proposed text or map amendment shall be considered sufficient. The form of notice given may include, but is not limited to, those established in City Code Title 10, Zoning Code, Section 10-20.30.080 (Notice of Public Hearings).
- c. Prior to the Council hearing on the proposed text or map amendment, the Planning Commission shall report on the issues and concerns raised during the citizen review session.

~~D~~.E. Application for Amendments to the General Plan

All applications for amendments to the General Plan shall be filed in accordance with the application procedures set forth in City Code Title 10, Zoning Code, Section 10-20.30.020 (Application Process).

1. An application for a minor amendment to the General Plan and a Zoning Map amendment for the same development site/application may be submitted at the same time and reviewed together by the Planning Commission and Council.
2. If it is determined that a major amendment to the General Plan is required, then the application for a Zoning Map amendment cannot be accepted until the major plan amendment has been approved.

~~E~~.F. Public Notice

Public notification shall be provided in compliance with City Code Title 10, Zoning Code, Section 10-20.30.080 (Notice of Public Hearings).

~~F~~.G. Notice to Other Jurisdictions

Upon receipt of a complete application for an amendment to the General Plan, the Council through the Director shall consult with, advise, and provide an opportunity for official comment by the following public officials and agencies generally to secure maximum coordination of plans and to indicate properly located sites for all public purposes on the General Plan:

1. Coconino County;
2. Flagstaff Unified School District;
3. Coconino County Superintendent of Schools;
4. Northern Arizona Council of Governments;
5. Public land management agencies, such as the United States Forest Service, United States Park Service, Arizona State Land Department, and Arizona State Parks;
6. Other appropriate government jurisdictions;
7. Public utility companies;
8. Civic, educational, professional, and other organizations; and
9. Affected property owners and citizens as determined in Subparagraph D.324. (Neighborhood Meeting) above.

~~G~~.H. General Plan Amendment Submittal Requirements

The Director shall not schedule a General Plan amendment before the Planning Commission until a complete application with all required written materials and fees are received from the applicant. The application shall be on a form and with those submittal requirements deemed necessary by the Director to ensure a complete review of the plan amendment application. At a

minimum, an applicant is required to submit the following, but the Director may require the submittal of additional materials to assist in the review of the General Plan amendment:

1. An executive summary clearly stating the proposed amendment with a description of the section of the General Plan for which the amendment is requested. The executive summary shall include the following:
 - a. A summary of the reason(s) for the request;
 - b. Identification of supporting key points discussed in the narrative or other submitted studies;
 - c. Statement of community benefits to be accrued as through the proposed amendment; and
 - d. An introduction to the applicant's team (i.e. owner, developer, and/or representative), including contact information.
2. An analysis of the site in terms of its physical characteristics, surrounding uses within 1,000 feet of the subject property, and the existing character of the area.
3. A land use analysis providing information about the proposed development, plans for any exception parcels, and a land use compatibility analysis. Items to address include:
 - a. Overall description and need for the proposed amendment;
 - b. Existing Land Use Plan and Proposed Land Use Plan;
 - c. Proposed residential unit count, density and anticipated housing mix, if applicable;
 - d. Proposed development phasing and timing;
 - e. Existing and proposed internal and external circulation and pedestrian opportunities (include circulation plan);
 - f. Open space concept plan;
 - g. Land use buffering techniques, if applicable; and
 - h. Incompatibility issues and proposed solutions.
4. A detailed narrative that shall include at a minimum the following:
 - a. Project title and date;
 - b. Legal description of the parcel;
 - c. Site acreage;

- d. Description of the applicable section of the General Plan for which the amendment is requested;
 - e. Statement of current zoning, and proposed zoning if applicable;
 - f. An explanation of why the proposed amendment is necessary and the public benefit that will be realized by the amendment;
 - g. An explanation of how the proposed amendment(s) will affect the vision expressed in the written goals, objectives, and policies of the General Plan that are most relevant to the proposed amendment. When a proposed amendment(s) is inconsistent with General Plan goals, objectives, and policies, the proposed amendment(s) must include one of the following:
 - (1) Justification for an exception to the written goals, objectives and policies; or
 - (2) A proposal to modify or eliminate the inconsistent goals, objectives and policies.
 - h. Cumulative impact of the proposal on ~~land use categories~~ area and place types within the City based on the ~~General Plan Land Use map~~ Future Growth Illustration;
 - i. Cumulative impact of the proposal on the supply of land zoned in the ~~same~~ existing category for the property within the City;
 - j. Impact on transportation and service needs;
 - k. Impact and/or benefit to housing which may result from the proposal; and
 - l. Impact on the implementation of the General Plan goals and policies resulting from the proposal.
5. Conceptual site or development plan at a size and scale as determined by the Director to generally illustrate the development intended under the requested amendment; and
 6. A non-refundable General Plan amendment fee in accordance with Appendix 2 (Planning Fee Schedule) provided in City Code Title 10, Zoning Code.

~~H.I.~~ Staff Report

The Director shall prepare and transmit a staff report to the Planning Commission. A copy of the staff report shall be made available to the public and any applicant prior to the public hearing.

~~H.J.~~ Planning Commission Hearing

1. The Planning Commission shall hold at least one public hearing on any amendment to the General Plan, including Specific Plans.

2. Notice of the time and place of a public hearing(s) on the General Plan or any amendments to the General Plan shall be made by publication of a notice at least once in a newspaper of general circulation published or circulated in the City at least 15 days but not more than 30 days before the public hearing.
3. In order to ensure effective and timely participation by the citizens of Flagstaff in new development projects for which a General Plan amendment is required, the requirements for a neighborhood meeting provided in City Code Title 10, Zoning Code, Section 10-20.30.060 (Neighborhood Meeting) shall apply.
4. The Planning Commission may recommend approval, approval with conditions, or denial of the proposed amendment. If the Planning Commission fails to make a recommendation to the Council within 30 days after closing the second public hearing, the Planning Commission shall be deemed to have recommended denial and the application shall be scheduled for public hearing and action by the Council.
5. Action by the Planning Commission on the General Plan or any amendment to the General Plan shall be transmitted to the Council.

J-K. Council Hearing

1. Upon receipt of the recommendation of the Planning Commission, the Council shall conduct at least one public hearing.
2. A copy of the adopted amendments to the General Plan shall be sent to Coconino County.

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Division 11-10.20: Additional Procedures for Comprehensive Updates, New Elements, and Major Amendments to the General Plan

Sections:

- 11-10.20.010 Comprehensive Plan Updates
- 11-10.20.020 Major Plan Amendments and New Elements

11-10.20.010 Comprehensive Plan Updates

- A. A Comprehensive Plan Update shall be initiated by the City and includes the adoption of a new General Plan or re-adoption of the City General Plan pursuant to A.R.S. § 9-461.06.
- B. The adoption of a new General Plan or re-adoption of the General Plan shall follow the Common Procedures for General Plan amendments (Section 11-10.10.020) and the procedures for a Major Plan Amendment (Section 11-10.20.020), except that it need not be heard at a single public hearing held during the calendar year in which the application was filed.
- C. The adoption of a new General Plan or re-adoption of the General Plan shall be approved by resolution of the Council by an affirmative vote of at least two-thirds of the members of the Council, and ratified by the voters pursuant to A.R.S. § 9-461.06.
- D. Pursuant to A.R.S. § 9-461.06, a comprehensive update of the General Plan must be conducted and ratified by the citizens of Flagstaff at least once every 10 years. However, changing conditions may warrant a comprehensive update on a more frequent basis as determined by the Council.
- E. All Comprehensive Plan Updates are subject to the public participation procedures established in City Code Title 10, Zoning Code, Section 10-20.30.060 (Neighborhood Meeting).
- F. **Ratification**
 - 1. Each new or readopted General Plan shall be submitted to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least 120 days after the governing body adopted the General Plan pursuant to A.R.S. § 16-204. The Council shall include a general description of the General Plan and its elements in the municipal election pamphlet and shall provide copies of the proposed General Plan to the public in at least two locations that are easily accessible to the public, which may include posting on the City's official internet web site.

2. If a majority of the qualified electors voting on the proposition approves the new or readopted General Plan, it shall become effective as provided by law.
3. If a majority of the qualified electors voting on the proposition fails to approve the new or readopted General Plan, the current General Plan remains in effect until a new or readopted General Plan is approved by the voters pursuant to this section. The Council may resubmit the proposed new or readopted General Plan, or revise the new or readopted General Plan as provided by this section for subsequent submission to the voters.

11-10.20.020
Major Plan Amendments and New Elements
A. Major Plan Amendment Criteria

- 1.—Major amendments to the General Plan are substantial alterations of the City's land use mixture or balance as established in the City's existing General Plan land use element and which involve changes that have an impact on large areas of the General Plan and/or can affect other issues or policies. These amendments alter the substance or intent of major General Plan policies. The criteria for determining whether a proposed change, including an annexation or a Specific Plan, will be treated as a Major Plan Amendment can be found in the General Plan.as follows:
 - a.—~~Category 1: Any increase of intensity of residential land use category of 80 acres or more;~~
 - b.—~~Category 2: A change from a residential land use classification to a non-residential land use category of 40 acres or more; and~~
 - c.—~~Category 3: Any change of non-residential land use category of 20 acres or more.~~
- 2.—~~All other amendments shall be considered minor amendments, including any change to or from parks, open space, and roadway plans.~~

~~Changes to the Redevelopment Area Plan in the General Plan and changes to goals and policies are not subject to the Major Plan Amendment process.~~

B. Supplemental Procedures for Major Plan Amendments

In addition to the Common Procedures provided in Section 11-10.10.020, a major amendment to the General Plan shall be adopted in the following manner:

1. Application Deadline

- a. All applications for Major Plan Amendments to the General Plan shall be heard by the Council at a single public hearing during the calendar year in which they are filed. In order to provide sufficient time for comprehensive review of an application for a Major Plan Amendment, the Director shall determine the application date each year for Major Plan Amendment requests. The following typical submittal dates apply:

April 1st – Pre-application meeting deadline;

May 1st – Application deadline for completeness review of the application by the Review Authority;

July 1st – Application deadline for submittal of the final application;

October – Planning Commission public hearings commence; and

December – Council public hearing.

- b. Incomplete applications or applications submitted after the July 1st deadline established in Subsection B.1 above will not be processed.

2. Application Requirements

In addition to the application requirements for all General Plan amendments, an application for a major amendment shall also include, at a minimum:

- a. An Infrastructure and Community Services Impact Analysis to provide the information necessary to assess the proposal's impact on utilities, roads, parks, schools, and other community facilities and services. This includes:
 - (1) Traffic analysis or traffic report that shows conformance with the ~~Transportation and Circulation Element~~ General Plan and the City's Transportation Master Plan;
 - (2) Water/wastewater analysis that shows conformance with the ~~Water Resources Element~~ General Plan and the City's Water and Waste Water Master Plan;
 - (3) Police and fire protection analysis that shows conformance with the General Plan ~~the Safety Element~~;
 - (4) School impact analysis, including a letter/memorandum from the appropriate school district(s) addressing the potential impact of the proposal on the school(s); and

(5) Conformance with the General Plan's goals and policies for ~~P~~public ~~S~~services and ~~F~~facilities ~~goals and policies~~ Element.

- b. An Economic Development Analysis that analyzes and weighs the cumulative economic impacts of the proposed amendment, including if requested by the Director, an economic impact study conducted by an economic consultant.

3. Additional Notice for New Plans, Comprehensive Updates, Elements and Major Amendments

At least 60 days before notice of the first hearing of the Planning Commission on a new, comprehensive update, an element, or a major amendment to the General Plan, the Director shall transmit the proposal to the Planning Commission and the Council and shall submit a copy for review and further comment to all government bodies and agencies listed in ~~ARS 9.461.06.D~~ as it may be amended from time to time, and any person or entity that requests in writing to receive a review copy of the proposal. The proposal shall also be posted on the City's website and on the applicant or applicant's agent's website, if such website exists.

~~a. Coconino County;~~

~~b. The General Planning agency within which the City is located;~~

~~c. The Arizona Department of Commerce or any other state agency that is subsequently designated as the general planning agency for the state;~~

~~d. The Arizona Department of Water Resources for review and comment on the water resources element, if a water resources element is required; and~~

~~Any person or entity that requests in writing to receive a review copy of the proposal.~~

4. Additional Planning Commission Hearings

- a. The Planning Commission shall conduct at least two public hearings for major General Plan amendments. Hearings on major General Plan amendments shall be held in two separate locations in the City.
- b. Notice of the time and place of each public hearing on the General Plan or any amendments to the General Plan shall be made by publication of a notice at least once in a newspaper of general circulation published or circulated in the City at least 15 days but not more than 30 days before the public hearing.

5. Public Hearing – Council

- a. All major amendments to the General Plan shall be presented at a

single public hearing during the calendar year the application is made.

- b. Adoption or re-adoption of the General Plan or a major amendment to the General Plan shall be approved by affirmative vote of at least two-thirds of the members of the Council. Approval shall be by resolution.

C. Supplemental Notice for New Elements of the General Plan

In addition to following all the common procedures for amending the General Plan, the addition of a new element to the General Plan shall be noticed as set forth in Section 11-10.20.020.B.3.

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Division II-10.30: Specific Plans

Sections:

- 11-10.30.010 Purpose
- 11-10.30.020 Elements of a Specific Plan
- 11-10.30.030 Specific Plan Adoption/ Amendment

II-10.30.010 Purpose

The purpose of a Specific Plan is to provide a greater level of detail for a specific geographic area or element of the General Plan, and to provide ~~specific regulations and standards~~ for the systematic implementation of the General Plan.

II-10.30.020 Elements of a Specific Plan

- A. Specific Plans shall be prepared based on the following factors:
 - 1. Development potential for new or expanded economic activities (including commercial areas, employment areas, corridors and mixed use districts);
 - 2. Development and/or revitalization of unique character districts;
 - 3. Special site characteristics (i.e., historic, recreational, natural resources, etc.);
 - 4. Rapid growth or economic change that warrants the need for special planning to accommodate such growth or change;
 - 5. Corridor Plan; and
 - 6. Other extenuating circumstances.
- B. A Specific Plan may, ~~in addition to recommended revisions to the Zoning Code (City Code Title 10) and the Subdivision and Land Split Regulations (Chapter 11-20),~~ include the following elements:
 - 1. ~~Regulations determining~~ Recommendations or statements of intent regarding the location of buildings and other improvements with respect to existing rights-of-way, floodplains, and public facilities;
 - 2. ~~Regulations of~~ Recommendations or statements of intent regarding the use of land, buildings and structures, the height and bulk of buildings and structures, and the open spaces around buildings and structures;
 - 3. Street and highway naming and numbering plans;

4. A plan ~~and regulations~~ and policies determining the location of infrastructure service area boundaries, consistent with the growth areas element of the General Plan, beyond which the municipality may limit or prescribe conditions on publicly financed extensions of water, sewer and street improvements that are necessary to service needs generated by new development. The plan ~~and regulations~~ and policies shall consider all elements of the General Plan, including the circulation and public facilities elements;
 5. Measures required to insure the execution of the General Plan; and
 6. Other matters which will accomplish the purposes of this section and the General Plan, including procedures for the administration of the General Plan.
- 6.7. Any other matter permitted by law.

11-10.30.030 Specific Plan Adoption/Amendment**A. Initiation**

The preparation of a Specific Plan may be initiated by the Director, by request from the Council, or by a property owner or group of property owners and their agent.

B. Preparation of a Specific Plan

1. If the preparation of a Specific Plan is requested by the Council, the Director shall cause a Specific Plan to be prepared in accordance with a schedule to be determined by the City Manager.
2. If a request for the preparation of a Specific Plan is initiated by a property owner or group of owners, the plan shall be prepared by the property owner(s) for review and revision by the Director, provided that:
 - a. The proposed Specific Plan conforms to the General Plan and the elements of this Section and it includes the requirements for a Specific Plan provided in Subsection 11-10.30.030.D (Format and Contents of Specific Plan);
 - ~~b. The resulting development will be of substantially higher quality than could be achieved under existing policies or land use categories as defined in the General Plan, in terms of integration of a mix of compatible uses with the surrounding uses;~~
 - ~~e.b.~~ The Specific Plan will be prepared by an interdisciplinary team of qualified professionals including but not limited to urban planners, architects, landscape architects, market analysts, and engineers; and,
 - ~~d.c.~~ The minimum area of the Specific Plan is such that a range of uses can

be accommodated and well integrated.

C. Configuration of Specific Plan

A proposed Specific Plan shall be configured to include all land within the Specific Plan boundary.

D. Format and Contents of Specific Plan

An application for a Specific Plan shall be on a form prescribed by the Director and available in the Community Development Division, and shall include, at a minimum, all information required for a major amendment to the General Plan plus the following additional information, if applicable as determined by the Director:

1. A precise map showing the land to be included within the proposed Specific Plan;
2. For all Specific Plan applications initiated by a property owner(s) or their agent, the written consent of all owners of the real property within the Specific Plan and a list, by name and title, of all ownership interests in the real property;
3. A letter of authorization for an agent, if applicable;
4. A Statement of Intent of the Specific Plan. The Statement of Intent is a written statement that outlines the need or desire for a Specific Plan;
5. A Site and Area Analysis Report that shall include the following elements:
 - a. Surface hydrology and water resources;
 - b. Topography and slope analysis;
 - c. Summary of General Plan requirements;
 - d. Environmental overview and assessment, including soils and geology, type of vegetation, etc.;
 - e. Existing structures, roads, and other development;
 - f. Existing infrastructure and public services;
 - g. Existing zoning/land use information;
 - h. Traffic analysis;
 - i. Cultural resource investigation;
 - j. Synthesis and summary of analysis; and
 - k. An analysis of the current context of the area in which the Specific Plan will be applied, including the identification of existing land uses,

environmental conditions, public facilities/infrastructure and planning area issues.

6. Concept or Illustrative Plan

The Concept or Illustrative Plan, a graphic illustration of potential land uses with descriptive text, shall be presented to the Director upon completion of the preliminary Site and Area Analysis Report. The Director will make a preliminary determination as to conformance with the General Plan, will determine whether a General Plan amendment is required, and will identify planning issues to be addressed in the submittal of the final Specific Plan. If it is determined that a plan amendment(s) is required, an application for General Plan Amendment shall be filed concurrently with the Specific Plan submittal.

7. Specific Plan Proposal

After preliminary approval of the Concept Plan, a complete Specific Plan proposal shall be submitted which includes, but may not be limited to, the following:

a. Map Elements:

- (1) The distribution, location, and extent of all land uses with proposed densities and building heights;
- (2) Existing and planned land uses within 300 feet of the Specific Plan boundary;
- (3) Open space, recreational facilities, parks, and trails;
- (4) Public, educational, health care, and religious facilities;
- (5) Drainage strategy;
- (6) Name and location of existing or proposed arterial and collector streets located within the area to be regulated by the Specific Plan or needed for servicing that area; and
- (7) Location and extent of existing or proposed provisions for sewage disposal, effluent use, storm-water drainage, solid waste disposal and public utilities.

b. Text

The text of the Specific Plan shall describe the following:

- (1) A statement of the long term direction of the Specific Plan identifying development opportunities and formulating objectives, policies, and implementation measures;
- (2) A statement(s) indicating how existing and approved elements of the General Plan will be supported by the proposed Specific Plan;

- (3) The compatibility of the Specific Plan with adjoining land uses;
 - (4) ~~Detailed regulations~~ Recommendations and programs for systematic implementation of the Specific Plan, and if applicable, ~~regulations~~ recommendations including regarding any annexation agreements and, required ordinance, or policy changes ~~required~~;
 - (5) Specific development standards for the map elements as described in the Site and Area Analysis;
 - (6) Drainage strategy;
 - (7) Configuration and criteria for the phasing and maintenance of arterial and collector streets proposed for the Specific Plan area or needed for servicing the project;
 - (8) Configuration and criteria for the phasing and maintenance of sewage disposal, effluent use, storm water drainage, solid waste disposal, and public utilities;
 - (9) Criteria for the conservation, development, or utilization of natural resources, including surface water, soils, vegetation, and wildlife;
 - (10) General landscape program;
 - (11) For single-phase plans, a draft schedule for the preservation of site features established by the plan and the construction, dedication and provision of public services;
 - (12) For multi-phased plans, a draft schedule for the preservation of site features established by the plan, the development of the various planning areas of the Specific Plan, and the construction dedication and provision of public services;
 - (13) Provisions to update the Specific Plan every five years to reflect changing market conditions, governmental regulations and physical conditions; and
 - (14) Demonstration of conformance with the General Plan, or, if required by the Director, a General Plan Amendment application.
- c. A non-refundable fee in accordance with Appendix 2 (Planning Fee Schedule) provided in City Code Title 10, Zoning Code.
 - d. Incomplete submittals will not be reviewed.

E. Review and Recommendation by the Director

Upon completion of the Specific Plan, the Director shall review the plan and

submit it to the Planning Commission. No Specific Plan may be adopted or amended unless the proposed plan or amendment is in substantial conformance with the General Plan.

F. Citizen Review

All applications for Specific Plans shall be subject to a citizen review process that provides effective, early and continuous public participation in accordance with the provisions set forth in Section 11-10.10.020.D.1 (Neighborhood Meeting). The Director may establish additional procedures for the citizen review process.

G. Planning Commission and Council Consideration

A Specific Plan will follow the procedures applicable to major amendments to the General Plan.

TITLE NINE: TRAFFIC

9-01-001-0008 MUNICIPAL PARKING LOTS

(A) The municipal parking lots now or hereafter acquired or established by the City shall be under the supervision and regulation of the Traffic Engineer, pursuant to Section 9-01-001-0007 of the Flagstaff City Code. Regulation by the Traffic Engineer of traffic and public parking at Flagstaff Pulliam Airport shall be subject to the approval of the Airport Manager and Public Works Director.

(B) The City Traffic Engineer is hereby authorized to post signs regulating the use of municipal parking lots. The signage or regulation may be reviewed by an aggrieved party pursuant to Section 9-01-001-0007 (C) of the Flagstaff City Code.

(C) It shall be unlawful to park any vehicle in any municipal parking lot in violation of this title, or to park contrary to the signs or regulation established by the City Traffic Engineer pursuant to paragraph B above.

(D) The penalty for violating Section C above shall be that prescribed in Section 9-01-001-0003 ~~(N)~~ (I) or as provided in Section 9-01-001-0006 (E), whichever is applicable. (Ord. 1564, 6/7/88)

TITLE EIGHT: PUBLIC WAYS AND PROPERTY

CHAPTER 8-05 REGULATIONS GOVERNING LAKE MARY

SECTIONS:

- ~~8-05-001-0001 JURISDICTION DECLARED:~~
- ~~8-05-001-0002 PICNICKING; CAMPING NEAR UPPER LAKE MARY:~~
- ~~8-05-001-0003 CAMPING NEAR LOWER LAKE MARY:~~
- ~~8-05-001-0004 COMMERCIAL FACILITIES:~~
- ~~8-05-001-0005 FISHING, HUNTING:~~
- ~~8-05-001-0006 BOATING:~~
- ~~8-05-001-0007 LITTERING LAKE AREA:~~

~~8-05-001-0001 JURISDICTION DECLARED:~~

~~Whereas, by authority vested in the City by that certain Special Use Permit issued by the United States Forest Service and section 16-601, Arizona Code of 1939 (A.R.S. [9-276](#)), and amendments and supplements thereto, covering administration of and jurisdiction over the public use of those certain lakes known as Upper Lake Mary and Lower Lake Mary, and the shoreline of the same for a distance of five hundred feet (500') from the high water level of the same, said Lakes being within Sections 1 and 2, Township 19 North, Range 8 East, Section 5, 6, 7, 8, 9, 16 and 17, Township 19 North, Range 9 East; Section 17 and the NE1/4, NW1/4, SW1/4, E1/2, of Section 18 and Sections 19, 20, 21, 22, 26, 27, 28, 34, 35 and 36, Township 20 North, Range 8 East; and Section 31, Township 20 North, Range 9 East of the Gila and Salt River base and meridian, jurisdiction of the City is hereby declared to exist.~~

~~8-05-001-0002 PICNICKING; CAMPING NEAR UPPER LAKE MARY:~~

~~Picnicking and camping within that areas embracing Upper Lake Mary described in Section 8-5-1 above and under the jurisdiction of the City are hereby prohibited, excepting within those designated and developed recreation or camping areas as shown on the U.S. Forest Service Map and Plan on file in the office of the Clerk and in the office of the Supervisor of the Coconino National Forest in Flagstaff, Arizona.~~

~~8-05-001-0003 CAMPING NEAR LOWER LAKE MARY:~~

~~Camping within that area embracing Lower Lake Mary as described in Section 8-5-1 above and under the jurisdiction of the City is hereby prohibited, excepting within those designated and developed camping areas as shown on the U.S.~~

~~Forest Service Map and Plan on file in the office of the Clerk and in the office of the Supervisor of the Coconino National Forest in Flagstaff, Arizona.~~

~~**8-05-001-0004 COMMERCIAL FACILITIES:**~~

~~Commercial facilities and business enterprises of all natures are hereby prohibited, excepting within one resort and two (2) boat landing areas as are shown and located on the U.S. Forest Service Map and Plan described in Sections 8-5-2 and 8-5-3 of this Chapter.~~

~~**8-05-001-0005 FISHING, HUNTING:**~~

~~Fishing and hunting and all other forms of public recreation are hereby prohibited within the area of the Lake approximately three hundred (300) yards above the dam at Lower Lake Mary and within the area of the Lake approximately four hundred forty (440) yards above the dam at Upper Lake Mary, as said areas are marked and posted by the City.~~

~~**8-05-001-0006 BOATING:**~~

~~Boating for the purposes of fishing or other forms of recreation or pleasure is hereby prohibited within the restricted areas as described in Section 8-5-5 above.~~

~~**8-05-001-0007 LITTERING LAKE AREA:**~~

~~The throwing, placing or disposing of any paper, trash of any nature, vegetable or animal matter of any nature, human excretion or waste of any nature, or rubbish of any nature within any of the areas described in Section 8-5-1 herein, excepting within containers labeled for that purpose within the areas set forth in Section 8-5-4 of this Chapter is hereby prohibited.~~

Title Six: Police Regulations

~~6-01-001-0003 DAMAGE TO PUBLIC WAYS AND PROPERTY:~~

~~A.— Damage to Road, Street or Bridge: No person shall, in any manner, damage any road, street or bridge in the City limits by running heavy vehicles over the same, by malicious destruction or by any act that will result in damage to said road, street or bridge. (Ord. 638, 6-9-64)~~

~~B.— Damaging Public Fixtures: It shall be unlawful for any person to, in any manner, damage or attempt to damage or tamper with any pipe lines, water hydrants, street lamps or lights or the fixtures and appliances belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the City; or in any manner to damage any water pipes, hydrants or any appliances pertaining to the water or sewer works; or in any manner to damage or attempt to damage or tamper with any other property of any and every character belonging to the City. (Ord. 214, 4-15-18)~~

~~C.— Deposits of Injurious Material on Thoroughfares: It shall be unlawful for any person to deposit, place or allow to remain in or upon any public thoroughfare any material or substance injurious to person or property. (Ord. 3, 6-14-1894)~~

~~D.— Injuring Fire Hydrants: The use of fire hydrants for any purpose except the extinguishment of fire is hereby prohibited; provided, that this subsection shall not operate to prevent the reasonable and moderate use of any hydrant for the practice of the Fire Department under the supervision of some duly authorized official thereof, or such use as the Superintendent of Waterworks may find expedient in the interest of the City. (Ord. 49, 2-16-1899)~~

~~E.— Injuring Sidewalks: Any person defacing, walking, riding or driving upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is thrown open to public use, shall be deemed guilty of a misdemeanor. (Ord. 143, 7-11-12)~~

~~F.— Lug Wheels Prohibited: It shall be unlawful for tractors and any other vehicles with wheels injurious to pavement to be permitted upon the public thoroughfares unless the operator of such vehicle shall first plank such streets.~~

Title One: Administrative

SECTION 1-01-009-0006, SCRIVENER AND FORMATTING ERRORS:

The City Clerk is authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk is authorized to make those formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code. The City Clerk is authorized to make such necessary corrections to any ordinance, before, during or following codification.

ORDINANCE NO. 2015-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE: TITLE ELEVEN: *GENERAL PLANS AND SUBDIVISIONS*; TITLE NINE, *TRAFFIC*; TITLE EIGHT, *PUBLIC WAYS AND PROPERTY*; TITLE SIX, *POLICE REGULATIONS*; AND TITLE ONE, *ADMINISTRATIVE*; BY ADOPTING THE “2015 MINOR AMENDMENTS TO THE FLAGSTAFF CITY CODE” AS SET FORTH IN THAT PUBLIC RECORD ON FILE WITH THE CITY CLERK RELATING TO PROVIDING FOR CORRECTIONS TO THE REGIONAL PLAN, REPEALING REGULATIONS OF THE LAKE MARY AREA, REPEALING REGULATIONS REGARDING DAMAGE TO PUBLIC WAYS, PROVIDING A PENALTY FOR UNLAWFUL PARKING, AND ALLOWING THE CLERK TO MAKE FORMATTING AND TECHNICAL CORRECTIONS TO CITY ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, from time to time the City Attorney’s Office brings to Council some proposed revisions to the City Code for the purpose of making minor technical changes; and

WHEREAS, Title Eleven of the City Code, General Plans and Subdivisions, is not consistent with the City’s General Plan, also known as the Regional Plan, regarding which amendments to the Plan are major versus minor; and

WHEREAS, Title Eleven of the City Code, General Plans and Subdivisions, does not provide a simple, expedient process for map corrections to the Regional Plan; and

WHEREAS, Title Eleven of the City Code, General Plans and Subdivisions, does not have language that encompasses the possibility of a non-regulatory specific plan; and

WHEREAS, Title Nine of the City Code, Traffic, prohibits illegal parking in City parking lots, but the reference to the penalty for the violation is incorrect; and

WHEREAS, Title Eight of the City Code, Public Ways and Property, regulating hunting, fishing and recreation at the Lake Mary area is more properly regulated by the federal government and the State; and

WHEREAS, Title Six of the City Code, Police Regulations, regulating damage to public ways and property is adequately regulated by State statutes; and

WHEREAS, Title One of the City Code, Administrative, does not give authority to the City Clerk to make technical corrections to ordinances.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code Titles Eleven, Nine, Eight, Six, and One are hereby amended by adoption of the amendments set forth in that document known as "2015 MINOR AMENDMENTS TO THE FLAGSTAFF CITY CODE" declared a public record by Resolution Number 2015-23 and on file with the City Clerk.

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Effective Date.

This ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Rick Compau, Purchasing Director
Co-Submitter: David Womochil, Senior Assistant City Attorney
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution No. 2015-24: A resolution of the City Council of the City of Flagstaff, Arizona, repealing Resolution No. 2013-19, *Procurement Code Manual*, and adopting a new *Procurement Code Manual* to incorporate a new Article (Article 31) relating to procurement from Arizona certified nonprofit agencies that serve or employ individuals with disabilities. (**Amending *Procurement Code Manual***)

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-24 by title only
- 2) City Clerk reads Resolution No. 2015-245 by title only (if approved above)
- 3) Adopt Resolution No. 2015-24

Executive Summary:

This Resolution is to amend the City's Procurement Code Manual to incorporate a new article (**Article 31-- Procurement from Arizona Certified Nonprofit Agencies that Serve or Employ Individuals with Disabilities**). The objective with this new article is to allow a procurement preference to purchase or contract for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements.

Financial Impact:

None

Connection to Council Goal and/or Regional Plan:

- 1.) Effective Governance

Has There Been Previous Council Decision on This:

City Council has discussed this item at the April 28, 2015 City Council Work Session meeting.

Options and Alternatives:

- 1.) Adopt Resolution
- 2.) Provide alternative language to be incorporated into the City's Procurement Code Manual for adoption
- 3.) Recommend other policy decisions

Background/History:

The City has a formal, comprehensive, Procurement Code Manual which was approved and adopted by City Council under Resolution No. 2013-19 on July 16, 2013. In August of 2014, City Council posed the following two (2) questions regarding possible procurement preferences:

1. Can the City award additional points to bidders who demonstrate that their use of sustainable practices will result in a reduced carbon footprint; and
2. Can the City award additional points to bidders who serve or employ individuals with disabilities.

On April 28, 2015, a formal presentation was given that addressed these two (2) questions. With regard to carbon footprint, a procurement preference related to sustainable practices that result in a reduced carbon footprint, was not recommended. However, it was recommended that a procurement preference be given to Arizona certified nonprofit agencies that serve or employ individuals with disabilities along with proposed language to be incorporated into the City's Procurement Code Manual as an amendment.

Key Considerations:

Adopting the proposed language as an amendment to the City's Procurement Code Manual, will allow the City to give a procurement preference without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements.

Community Benefits and Considerations:

A.R.S. 41-2636 (D) specifically sanctions the direct award of contracts to certified nonprofit businesses who serve or employ individuals with disabilities and giving a procurement preference to these types of certified nonprofit agencies can be considered a social responsibility, as well as a legal means of contracting with them without competitive bidding.

Community Involvement:

Inform

Attachments: Proposed Resolution Amendment Language
 Res. 2015-24



Procurement Preferences

Arizona Certified Nonprofit Businesses who Serve or Employ Individuals with Disabilities

Proposed language to be added to the City's Procurement Code Manual as an amendment:

- “The City may purchase or contract for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City’s reasonable requirements”, as determined by the Director and the requesting Department”.

- “The City may also set aside, at minimum, a % of its purchases or contracts for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City’s reasonable requirements”, as determined by the Director and the requesting Department”.

RESOLUTION NO. 2015-24

A RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA REPEALING RESOLUTION NO. 2013-19, *PROCUREMENT CODE MANUAL*, AND ADOPTING A NEW *PROCUREMENT CODE MANUAL* TO ADD A PROVISION REGARDING ARIZONA CERTIFIED NONPROFIT BUSINESSES THAT SERVE OR EMPLOY INDIVIDUALS WITH DISABILITIES

RECITALS:

WHEREAS, the City of Flagstaff generally follows procurement practices utilized by the State of Arizona; and

WHEREAS, the Flagstaff City Council desires to amend the Procurement Code Manual by adding a procurement preference for Arizona certified nonprofit businesses that serve or employ individuals with disabilities.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

Section 1. Resolution No. 2013-19, adopted on July 16, 2013, is hereby repealed.

Section 2. The City of Flagstaff hereby adopts a new *Procurement Code Manual*, attached hereto as Exhibit A, to add the following article.

ARTICLE 31 ARIZONA CERTIFIED NONPROFIT BUSINESSES THAT SERVE OR EMPLOY INDIVIDUALS WITH DISABILITIES

- A. The City may purchase or contract for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements, as determined by the Director and the requesting department.
- B. The City may set aside, at minimum, a percentage of its purchases or contracts for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements, as determined by the Director and the requesting department.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



PROCUREMENT CODE MANUAL

***CITY OF FLAGSTAFF
PURCHASING SECTION***

***CITY OF FLAGSTAFF
211 W. ASPEN AVE.
FLAGSTAFF, ARIZONA 86001***

Dated 06/02/2015

TABLE OF CONTENTS

ARTICLE 1	PURPOSE; DIRECTOR AUTHORITY and DUTIES; DELEGATION.....	5
ARTICLE 2	APPLICABILITY.....	6
ARTICLE 3	SUPPLEMENTARY GENERAL PRINCIPLES OF LAW.....	7
ARTICLE 4	DEFINITIONS.....	7
ARTICLE 5	UNAUTHORIZED PURCHASE.....	13
ARTICLE 6	DETERMINATIONS.....	14
ARTICLE 7	INFORMAL and FORMAL PROCUREMENT LIMITS; QUOTE FILE REQUIREMENTS.....	14
Sec. 7.1	Informal Procurement Process.....	14
Sec. 7.2	Vendor List.....	16
Sec. 7.3	Vendor Award.....	17
Sec. 7.4	Quote File Requirements.....	17
ARTICLE 8	AVAILABLE FUNDS.....	17
Sec. 8.1	Available Funds Identification.....	17
Sec. 8.2	Petty Cash.....	18
Sec. 8.3	Procurement Cards.....	18
ARTICLE 9	FORMAL PROCUREMENT PROCESS.....	18
ARTICLE 10	FORMAL PROCUREMENT PROCESS—INVITATION FOR BIDS.....	18
Sec. 10.1	Invitation for Bids Determination.....	18
Sec. 10.2	Request for Issuance of an Invitation for Bids.....	18
Sec. 10.3	Invitation for Bids.....	18
Sec. 10.4	Invitation for Bids, Format, Content, Public Inspection.....	19
Sec. 10.5	Pre-bid Conference.....	20
Sec. 10.6	Addendum to Invitation for Bids.....	21
Sec. 10.7	Pre-opening Modifications or Withdrawal of Bids.....	21
Sec. 10.8	Late Bids, Late Withdrawals, and Late Modifications.....	22
Sec. 10.9	Receipt, Opening, Recording of Bids, and Confidential Information.....	22
Sec. 10.10	Mistakes in Bids.....	23
Sec. 10.11	Bid Evaluation and Award.....	23
Sec. 10.12	Only One Bid Received.....	24
Sec. 10.13	Multi-step Sealed Bidding.....	25
Sec. 10.14	Phase One of Multi-step Sealed Bidding.....	25
Sec. 10.15	Phase Two of Multi-step Sealed Bidding.....	26
ARTICLE 11	FORMAL PROCUREMENT PROCESS—REQUEST for PROPOSALS.....	26
Sec. 11.1	Request for Proposals Determination.....	26
Sec. 11.2	Request for Issuance of a Request for Proposals.....	27
Sec. 11.3	Request for Proposals.....	27
Sec. 11.4	Solicitation Opportunities.....	29
Sec. 11.5	Pre-proposal Conferences.....	29
Sec. 11.6	Late Proposals, Modifications or Withdrawals.....	29
Sec. 11.7	Receipt of Proposals.....	29
Sec. 11.8	Evaluation of Proposals.....	30
Sec. 11.9	Discussions With Responsible Proposers and Revisions to Proposal.....	30
Sec. 11.10	Best and Final Offers; Tied Proposals.....	31
Sec. 11.11	Mistakes in Proposal Response.....	31
Sec. 11.12	Contract Award for Requests for Proposals.....	32

ARTICLE 12	FORMAL PROCUREMENT PROCESS—PROFESSIONAL DESIGN SERVICES, CAPITAL IMPROVEMENTS/CONSTRUCTION and CONSTRUCTION SERVICES.....	32
Sec. 12.1	Request for Solicitation Determination.....	32
Sec. 12.2	Request for Issuance of a Formal Solicitation.....	33
Sec. 12.3	Professional Design Services.....	33
Sec. 12.4	Capital Improvements/Construction.....	33
Sec. 12.5	Construction Services.....	34
ARTICLE 13	FORMAL SOLICITATION ADVERTISING.....	36
ARTICLE 14	EVALUATION/SELECTION COMMITTEE for MATERIALS, SERVICES, PROFESSIONAL DESIGN SERVICES and CONSTRUCTION.....	37
Sec. 14.1	Guidelines for Evaluation/Selection Committee; Selection Process.....	37
Sec. 14.2	Guidelines for the Selection of Evaluation Criteria Used in a Solicitation Advertised as an Invitation for Bids, Request for Proposals or a Request for Statements of Qualifications.....	38
ARTICLE 15	CANCELLATION or REJECTION OF SOLICITATIONS.....	39
Sec. 15.1	Solicitation Statement.....	39
Sec. 15.2	Cancellation of Solicitation <u>Before</u> Bids or Proposals Are Due.....	39
Sec. 15.3	Cancellation of Solicitation <u>After</u> Bids or Proposals Are Due.....	40
Sec. 15.4	Rejection of All Solicitations.....	40
Sec. 15.5	Procurement Procedural Irregularity.....	40
ARTICLE 16	DETERMINATION OF BIDDER and PROPOSER RESPONSIBILITY... 40	
Sec. 16.1	Request for Review of Responsibility.....	42
ARTICLE 17	COST or PRICING DATA.....	42
Sec. 17.1	Reimbursement.....	42
ARTICLE 18	SOLE SOURCE.....	42
Sec. 18.1	Sole Source; Evidence Request.....	43
Sec. 18.2	Sole Source Justification.....	43
ARTICLE 19	EMERGENCY PURCHASE.....	43
Sec. 19.1	Conditions for Emergency Purchase.....	44
Sec. 19.2	Emergency Purchase Procedure.....	44
ARTICLE 20	PROCUREMENTS FROM SOLICITATIONS by OTHER GOVERNMENTAL ENTITIES.....	44
Sec. 20.1	Existing Contracts.....	44
Sec. 20.2	Joint Solicitations.....	45
Sec. 20.3	Cooperative Purchasing Contract Awards.....	45
Sec. 20.4	Purchases From Existing Contracts.....	45
Sec. 20.5	Request for Joint Solicitation.....	46
Sec. 20.6	Commitment to Purchase or Participate.....	46
ARTICLE 21	BID and CONTRACT SECURITY.....	46
Sec. 21.1	Bid Bond.....	46
Sec. 21.2	Performance and Payment Bonds.....	46
Sec. 21.3	Collection of Bid Bonds.....	47
Sec. 21.4	Enforcement of Performance Bonds.....	47
ARTICLE 22	MULTI-TERM CONTRACTS.....	47
Sec. 22.1	Determination for Contract Periods Over 5 years.....	47
Sec. 22.2	Establishment of Contract Period.....	48
Sec. 22.3	Authority to Renew.....	48
ARTICLE 23	RIGHT to INSPECT; AUDIT.....	48
ARTICLE 24	CONTRACT PROVISIONS and AMENDMENTS.....	48
Sec. 24.1	Standard Provisions.....	48

Sec. 24.2	Effective Dates.....	48
Sec. 24.3	Contract Review Process.....	49
Sec. 24.4	Contract Preparation Process.....	49
Sec. 24.5	Contracts to be Maintained by the City Clerk.....	49
Sec. 24.6	Contract Amendments.....	49
Sec. 24.7	Contract Amendment Preparation.....	50
Sec. 24.8	Contract Amendment Process.....	50
ARTICLE 25	CHANGE ORDERS.....	50
Sec. 25.1	Change Order Process.....	51
Sec. 25.2	Change Order Conditions.....	52
Sec. 25.3	Change Order Membership.....	52
ARTICLE 26	AWARD of CONTRACT.....	53
Sec. 26.1	Notice of Intent to Award.....	53
ARTICLE 27	SPECIFICATION GUIDELINES.....	53
Sec. 27.1	Content of Specifications.....	54
Sec. 27.2	Samples/Demonstrations.....	54
Sec. 27.3	Specification Approval.....	54
Sec. 27.4	Specification Guidelines.....	54
Sec. 27.5	Maximum Practicable Competition; Brand Name or approved Alternate Qualified Products List.....	54
Sec. 27.6	Inspections and Tests.....	55
Sec. 27.7	Proprietary Specifications.....	56
Sec. 27.8	Product Testing Guidelines.....	56
Sec. 27.9	Specifications Prepared by Architects; Engineers; Consultants.....	56
Sec. 27.10	Preparation of Specifications by Persons Other Than City Personnel.....	56
Sec. 27.11	Recycled and Energy Consumptive Materials; Life Cycle Costing; Environmental Procurement.....	57
Sec. 27.12	Environmental/Sustainable Procurement Policy.....	57
ARTICLE 28	DISPOSITION of SURPLUS PERSONAL PROPERTY.....	58
Sec. 28.1	Organizational Need.....	59
Sec. 28.2	Surplus Property Listing.....	59
Sec. 28.3	Surplus Property Trade-In Allowance.....	59
Sec. 28.4	Proceeds From Sales.....	59
Sec. 28.5	Donation of Surplus Property.....	59
ARTICLE 29	PROTESTS.....	60
Sec. 29.1	Time for Filing Protests.....	60
Sec. 29.2	Filing of a Protest.....	60
Sec. 29.3	Stay of Procurements During the Protest.....	60
Sec. 29.4	Confidential Information.....	61
Sec. 29.5	Remedies.....	61
ARTICLE 30	SUSPENSION; DEBARMENT.....	61
Sec. 30.1	Resolution of Contract Controversies-Materials, Services and Construction Contracts.....	62
ARTICLE 31	ARIZONA CERTIFIED NONPROFIT BUSINESSES THAT SERVE OR EMPLOY INDIVIDUALS WITH DISABILITIES.....	63

ARTICLE 1 **PURPOSE; DIRECTOR AUTHORITY AND DUTIES; DELEGATION**

A. Purpose.

The City operates as a centralized Purchasing Section under the supervision of a Purchasing Director ("Director"), which shall have for its purpose the purchase of materials, services, and construction for the City and shall:

1. Establish efficient procurement, inventory and disposition of surplus personal property procedures;
2. Purchase all materials, services, and construction for the City at the lowest possible cost commensurate with quality needed;
3. Exercise positive financial control over purchases;
4. Clearly define authority for the purchasing function and the City's Purchasing Code of Ethics;
5. Assure the quality of purchases; and
6. Provide procurement assistance to all City Departments and Divisions;

B. Director Authority and Duties.

The Director shall:

1. Except as otherwise provided in this Procurement Code Manual, the Director shall establish rules consistent with this Procurement Code Manual, governing the procurement of all materials, services and construction to be procured by the City. Rules and procedures for the procurement of construction and professional design services, shall also be consistent with Arizona Revised Statutes, (A.R.S.) Title 34, Public Buildings and Improvements.
2. Except as otherwise provided in this Procurement Code Manual, procure all materials, services and construction required by any Department or Division of the City in accordance with the provisions of this Procurement Code Manual and such procurement rules as may be established pursuant to this Procurement Code Manual.
3. Establish rules and procedures for the management of inventories of material and surplus personal property belonging to the City.
4. Sell, trade or otherwise dispose of surplus personal property belonging to the City in compliance with requirements of the City Charter.
5. Establish and maintain programs for the inspection, testing and acceptance of materials, services and construction.
6. Discourage collusive and restrictive bidding and endeavor to obtain as fair and open competition as possible on all purchases.

7. Prepare and recommend to the City Council revisions and amendments to this Procurement Code Manual.
 8. Keep informed of current developments in the field of purchasing, prices, market conditions and new products.
 9. Prescribe and maintain such procedures as necessary for the operation of the centralized procurement function.
 10. Maintain a Bidder's list, material, service and construction references and all records needed for the efficient operations of the centralized purchasing function.
- C. Delegation of Authority.

The Director hereby delegates the powers and duties of the Director authorized by this Procurement Code Manual to the Purchasing Section Staff.

ARTICLE 2 **APPLICABILITY**

- A. The provisions of this Procurement Code Manual apply only to procurements initiated after its effective date. The City Attorney's office, in consultation with the Director, shall interpret the provisions the provisions of this code in the event of any ambiguity.
- B. The provisions of this Procurement Code Manual are applicable to every purchase of materials, services and construction with public monies, including federal grants, and federal assistance monies except as otherwise provided in this section. Nothing in this Procurement Code Manual shall supersede the **Flagstaff City Charter**, or the terms and conditions of any grant, gift or bequest accepted by the City Council. If the procurement involves the expenditure of grants, federal assistance or contract monies or is subject to state law, the director shall comply with federal and state law and authorized regulations which are mandatorily applicable and which may not be reflected in this Procurement Code Manual.
- C. Contracts for construction, as defined in Article 12, and contracts for the services of architects or engineers to be used in connection with construction contracts shall be governed by the provisions of A.R.S. Title 34, Public Buildings and Improvements. Procedures and other provisions of this Procurement Code Manual, and rules established pursuant thereto, shall apply to such contracts only to the extent such Procurement Code Manual provisions, procedures and rules are not inconsistent with A.R.S. Title 34, Public Buildings and Improvements.
- D. Professional services, such as appraisals, title searches/reports and policies, used in support of Real Property Transactions, are subject to all applicable Sections of this Procurement Code Manual.
- E. The following contracts are not subject to this Procurement Code Manual:
 1. Intergovernmental agreements;

2. Agreements negotiated by the Risk Management Manager or the City Attorney for the settlement of litigation or threatened litigation; and
3. Easement Agreements or Right of Entry Agreements.

ARTICLE 3 **SUPPLEMENTARY GENERAL PRINCIPLES OF LAW**

Nothing in this Procurement Code Manual shall supersede Article VIII, "Contracts", Sections 1 through 10, of the Flagstaff City Charter.

ARTICLE 4 **DEFINITIONS**

The words defined in this section shall have the meanings set forth below whenever they appear in this Procurement Code Manual, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

Addendum means any formal notification of any revision to pertinent information contained in either an informal or formal solicitation.

Advantageous means in the best interest of the City.

Affiliate means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It may also include persons doing business under a variety of names, or where there is a parent-subsidary relationship between persons.

Alternative Project Delivery Methods means construction related projects that utilize Construction-Manager-At-Risk, Design-Build or Job-Order-Contracting, instead of the traditional Design-Bid-Build method of construction project delivery.

Authorized Purchase means any purchase that has been requisitioned and that has gone through the appropriate approval processes.

Best and Final Offer means a formal process, conducted by the Purchasing Agent as the last phase of a Request for Proposals process after formal discussions and/or Proposer presentations are conducted.

Best Interests of the City means advantageous to the City.

Brand Name or Approved Alternate Specification means a specification that uses one (1) or more manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet City requirements, and that provides for the submission of equivalent products.

Brand Name Specification means a specification limited to one (1) or more items by manufacturers' name or catalogue numbers.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Capital Improvements means construction related projects involving the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property.

Change Order means a written order, approved by the City's Change Order Committee and signed by an authorized agent of the City, which directs the contractor or the City, to make changes that are authorized by the change order clause of the original contract.

Construction means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings or real property.

Construction Manager means a person who provides management and/or technical services required to implement a capital project pursuant to the project guidelines.

Construction-Manager-At-Risk (CMAR) means a project delivery method in which:

- (A) There is a separate contract for design services and a separate contract for construction services.
- (B) The contract for construction services may be entered into at the same time as the contract for design or at a later time.
- (C) Design and construction of the project may be in sequential phases or concurrent phases.
- (D) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Contract means all types of City agreements, regardless of what they may be called, for the procurement of materials, services, or construction or the disposition of personal property.

Contract Modification means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.

Contractor means any person who has a contract with the City.

Cost Data means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.

Data means documented information, regardless of form or characteristic.

Days mean calendar days unless otherwise specified.

Debarment means an action taken by the director, under the provisions of this Procurement Code Manual, to prohibit a person from participating in City procurements for three (3) years.

Department/Division means an organizational work unit as defined by the City of Flagstaff Organization Chart.

Designee means a duly authorized representative of a person holding a superior position.

Design-Build (DB) means a project delivery method in which:

- (A) There is a single contract for design services and construction services.
- (B) Design and construction of the project may be in sequential phases or concurrent phases.
- (C) Finance services, maintenance services, operations services, preconstruction services and other related services may be included.

Design-Bid-Build (DBB) means a project delivery method in which:

- (A) There is a sequential award of two separate contracts.
- (B) The first contract is for design services.
- (C) The second contract is for construction.
- (D) Design and construction of the project are in sequential phases.
- (E) Finance services, maintenance services and operations services are not included.

Director means the Director of the Purchasing Section or designee.

Employee means an individual drawing a salary through the payroll process of the City whether elected or not.

End User means any City employee who will actually be using the material or service being requested.

Field Order means a paperless purchase order number given out by the Purchasing Section for Immediate, necessary, purchases, under one thousand dollars (\$1,000), by City staff who are in need of various materials needed to repair fixtures or equipment.

Interested Party means an actual or prospective Bidder or Proposer whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective Bidder or Proposer has an economic interest will depend upon the circumstances of each case.

Invitation for Bids (IFB) means all documents, whether attached or incorporated by reference, which are used for soliciting formal bids in accordance with the procedures prescribed in this Procurement Code Manuals.

Invitation To Submit Technical Offers means all documents, whether attached or incorporated by reference, which are used for soliciting unpriced technical offers to assist in the evaluation of market place technology to determine what specific technology would be considered to be the most advantageous to the City to be specified in a subsequent competitive solicitation.

Job-Order-Contracting (JOC) means a project delivery method in which:

- (A) The contract is a requirements contract for indefinite quantities of construction.
- (B) The construction to be performed is specified in job orders issued during the contract.
- (C) Finance services, maintenance services, operations services, preconstruction services, design services related services may be included.

Life Cycle Cost Assessment (LCCA) means the comprehensive accounting of the total cost of ownership, including initial costs, energy, and operational costs, longevity and efficacy of service and disposal costs.

Local Vendor means any individual or company, with a valid business license, issued by the City of Flagstaff and a business location within the City limits of Flagstaff, for a period of six months.

Materials means all personal property, including equipment, supplies, printing and insurance.

May shall be construed as being permissive.

Multi-Step Sealed Bidding means a two-phase process consisting of a technical first phase composed of one (1) or more steps in which Bidders submit un-priced technical offers to be evaluated by the City and a second phase in which those Bidders whose technical offers are determined to be acceptable during the first phase have their priced bid considered.

Person shall include the state, the county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, limited liability company, association, organization, and any other group acting as a unit, as well as an individual. It includes a trustee, receiver or similar representative.

Price Data means information concerning prices, including profit, for materials, services or construction items substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered or proposed selling prices, historical selling prices, or current selling prices of the items being purchased.

Private Development means commercial or residential development by the private sector.

Procurement means buying, purchasing, renting, leasing or otherwise acquiring any materials, services and construction. Procurement also includes all functions that pertain to the acquisition of any materials, services or construction including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Code Manual means this Procurement Code Manual, outlining various procurement functions, as approved and adopted by the Flagstaff City Council.

Professional Services means those services requiring special knowledge, education or skill and where the qualifications of persons rendering the services are of primary importance. shall

include, but not be limited to, appraisers, attorneys, architects, engineers, surveyors, accountants, psychologists, physicians, and other health professionals.

Project Manager means a person who provides management and/or technical services required to implement a capital project pursuant to the project guidelines.

Proprietary Specification means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.

Purchasing Agent means the Director, Purchasing Manager, Senior Procurement Specialist, Buyers, or any member of the Purchasing Staff authorized by the Director to commit the City to a purchase and manage, supervise, and monitor the execution of the terms and conditions of a contract.

Purchase Description means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.

Purchase Requisition means a formal request for a material, service or construction and electronically submitted through the City's financial software system and processed into a formal purchase order.

Qualified Products List means an approved list of materials, services or construction items described by model or catalogue numbers, that, prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

Recycled Content Product means a product containing a minimum of thirty-five percent (35%) recycled materials except in those cases where the US EPA has adopted procurement guidelines under the Resource Conservation Recovery Act of 1976.

Recyclable Product means a product or package made from a material for which curbside or drop-off collection systems are in place for a majority of City residents or businesses; to divert from City solid waste for use as a raw material in the manufacture of another product or the reuse of the same product.

Request for Information means all documents, whether attached or incorporated by reference, which are used for soliciting unpriced information regarding a specific product or service for evaluation to determine what specifications or scope of work would be considered to be the most advantageous to the City to be specified in a subsequent competitive solicitation.

Request for Proposals (RFP) means all documents, whether attached or incorporated by reference, which are used for soliciting formal proposals in accordance with procedures prescribed in this Procurement Code Manual.

Request for Statements of Qualifications (RSOQ) means all documents, whether attached or incorporated by reference, which are used for soliciting formal statements of qualifications in accordance with procedures prescribed in this Procurement Code Manual.

Requisitioner means any staff member, working for the City of Flagstaff, who has a request for either a material, service or construction and electronically submits a purchase requisition through the City's financial software system.

Responsible Bidder or Proposer means a person who has the capability, skills and experience to perform the contract requirements and the integrity and reliability which will assure good faith performance.

Responsive Bidder or Proposer means a person who submits a bid which conforms in all material respects to the invitation for bids or request for proposals.

Reusable Product A product that can be used several times for an intended end use before being discarded.

Services means the furnishing of labor, time or effort by an independent contractor which does not involve the delivery of a specific end product other than required reports and performance.

Shall The word "shall" shall be construed as being mandatory.

Solicitation means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request by which the City invites a person to participate in a procurement.

Specification means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service or construction item for delivery.

Surplus Property means any supplies, materials and equipment owned by the City, that no longer has any use to the City. This includes obsolete materials, scrap materials, and supplies, materials and equipment that have completed their useful life cycle.

Suspension means an action taken by the director temporarily disqualifying a person from participating in City procurements for six (6) months.

Sustainably Preferable Product means a product that has a reduced negative effect or increased positive effect on human health and the environment when compared with competing products that serve the same purpose. This term includes, but is not limited to, recyclable products, recycled products and reusable products.

Sustainable Product means a product that achieves performance objectives while respecting the City's values and balancing environmental stewardship, fiscal responsibility, social equity, and community enhancement.

Sustainable Purchasing means purchasing materials, products, and labor in a manner that reflects fiscal responsibility, social equity, environmental stewardship and community enhancement.

Task Order means a written form used in a process associated with On-Call contracts in which a task order form is submitted to initiate professional Architectural, Engineering, Surveying,

Landscape Architecture and Geotechnical services from those firms who have been awarded an On-Call contract.

Technical Offer means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.

Quotation means a verbal or written commitment to supply materials, services or construction at a stated price and terms.

Request for Quotation (RFQ) means all documents, whether attached or incorporated by reference, which are used for soliciting quotations in accordance with procedures prescribed in the informal procurement process.

ARTICLE 5 **UNAUTHORIZED PURCHASE**

- A. Any purchase made that does not follow any of the applicable processes under the provisions of this Article, is considered an unauthorized purchase.
- B. All purchases will be made in accordance with this Procurement Code Manual. The following steps shall be included in the procurement process:
 - 1. Electronic submission of a properly completed purchase requisition;
 - 2. Verification by the requestor that funds are available;
 - 3. The purchase requisition has gone through all other established approval processes;
 - 4. All requisitions for materials, services and construction that are **below fifty thousand dollars (\$50,000)** shall be subject to an informal competitive solicitation process under the provisions of Article 7(A); except as provided in Article 2 "Applicability", Article 18 "Sole Source", Article 19 "Emergency Purchase" and Article 20, "Procurements From Solicitations By Other Governmental Entities";
 - 5. All requisitions for materials, services and construction **at fifty thousand dollars (\$50,000) and higher**, shall be subject to a formal competitive solicitation process under the provisions of Article 7(B) and **any contract award shall be approved by City Council**; except as provided in Article 2 "Applicability", Article 18 "Sole Source", Article 19 "Emergency Purchase"; and Article 20, "Procurements From Solicitations By Other Governmental Agencies"; and
 - 6. All purchases for materials, services and construction shall have a properly executed purchase order and a contract, if a contract is deemed necessary, given the particular purchase, to be processed by the Purchasing Section.
- C. An employee making a purchase not in conformance with this Procurement Code Manual, adopted rules and established procedures may be subject to:
 - 1. Verbal consultation with individual;

2. Written reprimand with individual;
 3. Revocation of purchasing rights; or
 4. Other corrective action, as deemed appropriate
- D. Any unauthorized purchase shall be reported to the appropriate Division or Department Head.

ARTICLE 6 **DETERMINATIONS**

Written determinations, if required by this Procurement Code Manual, shall be retained in the appropriate official record file of the Purchasing Section.

- A. Determinations shall fully specify reasons.
- B. The Director may specify the format for Determinations.

ARTICLE 7 **INFORMAL AND FORMAL PROCUREMENT LIMITS; QUOTE FILE REQUIREMENTS**

- A. ***Informal Procurement Limit.*** Procurement of a material, service or construction, less than fifty thousand dollars (\$50,000.00), shall be made by informal procedures in accordance with the provisions of Section 7.1 of this Procurement Code Manual and any applicable federal and state laws, rules and regulations except as provided in Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases"; Article 20, "Procurements From Solicitations By Other Governmental Entities". Procurements less than fifty thousand dollars (\$50,000.00) may be made utilizing a formal procurement process if deemed by the Director to be in the best interest of the City. Procurements less than fifty thousand dollars (\$50,000.00) are not required to be approved and awarded by City Council.
- B. ***Formal Procurement Limit.*** Procurement of a material, service or construction, of fifty thousand dollars (\$50,000.00) and higher shall be made by formal procedures in accordance with the City Charter and provisions of Article 9 of this Procurement Code Manual and any applicable federal and state laws, rules and regulations, except as provided in Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases". Procurements of fifty thousand dollars (\$50,000.00) and higher, are required to be approved and awarded by City Council.

Section 7.1 ***Informal Procurement Process***

- A. Informal Procurement Process.

Any procurement, established in Article 7(A) shall be made in accordance with established Procurement Code Manual procedures. Determination as to the use of informal or formal process shall be based on the cost of the item(s), including all taxes, fees, freight, installation and any other miscellaneous costs. The procurement shall be made with such competition as is outlined in B, C and D under this Section. Procurement requirements shall not be artificially divided or fragmented to circumvent the purchasing

process under this section or the procedures required by Article 9, "Formal Procurement Process." This section shall not be construed to permit informal purchasing if there is a City Charter or ordinance provision or a Federal or State law, regulation or rule to the contrary.

B. PURCHASES AT FIVE THOUSAND DOLLARS (\$5,000) OR LESS

For purchases at or less than **five thousand dollars (\$5,000)**, the Purchasing Agent or requesting Division or Section may direct select the vendor of choice for the purchase of any materials, services or construction requested. Reasonable good faith efforts shall be made to purchase from a Local Vendor by utilizing our local Vendor list as a first resource.

C. PURCHASES AT FIVE THOUSAND AND ONE DOLLARS (\$5,001) UP TO FIFTEEN THOUSAND DOLLARS (\$15,000).

For purchases at **five thousand and one dollars (\$5,001)** and up to **fifteen thousand dollars (\$15,000)**, the Purchasing Agent or requesting Department shall solicit, verbal quotations for the purchase of materials, services or construction from, at minimum three (3) Bidders or Proposers, as determined to be the most advantageous under the immediate circumstances, except as provided in Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases"; Article 20, "Procurements From Solicitations By Other Governmental Entities". Reasonable good faith efforts shall be made to solicit quotes from Local Vendors by utilizing our local Vendor list as a first resource. Verbal quotations obtained shall be documented in the procurement file.

D. PURCHASES AT FIFTEEN THOUSAND AND ONE DOLLARS (\$15,001) UP TO FORTY NINE THOUSAND NINE HUNDRED AND NINETY NINE DOLLARS (\$49,999).

For purchases at **fifteen thousand and one dollars (\$15,001)** and up to **forty nine thousand nine hundred and ninety nine dollars (\$49,999)**, shall be made in accordance with the following procedures:

1. A Purchasing Agent or requesting Department shall solicit at least three (3) Bidders or Proposers to submit written or faxed quotations or proposals on vendor's letterhead or by e-mail. Whenever practicable, the City's standard Request for Quotations (RFQ) or Request for Proposals (RFP) document shall be utilized in an effort to obtain written quotes. The City Attorney's Office shall review the RFQ and RFP prior to issuance, if a contract is required for the procurement. Written quotations obtained shall be documented in the procurement file.
2. The Purchasing Agent may solicit quotations or Proposals from all vendors on the Bidder's list, but at minimum, shall solicit quotations or Proposals from Local Vendors by utilizing our local vendor list as a first resource and those Bidders or Proposers who have specifically requested an opportunity to submit a quotation or Proposal for the specific material, service or construction being requested at that time.
3. Award shall be made to the lowest responsive and responsible Bidder or highest scoring responsive and responsible Proposer submitting a responsive quotation

or proposal. The amount of an applicable City Transaction Privilege or Use Tax shall not be a factor in determining the lowest Bidder if a competing Bidder, who is located outside the City, is not subject to an equal tax rate.

4. Whenever required by the Purchasing Agent, Bidders or Proposers shall submit quotes or proposals on the form issued with the Request for Quotation or Proposal, and the quotes shall be recorded and placed in the procurement file.
5. If only one responsive and responsible quotation or proposal is received, a statement shall be included in the procurement file explaining the basis for determining that the price and/or proposal is fair and reasonable. Time permitting, the Purchasing Agent may initiate a second solicitation to include the vendor who provided the only response initially.
6. Whenever practicable, Article 27, "Specification Guidelines" shall be used in the development of specifications for a Request for Quotation or Proposal.
7. Written quotations or proposals transmitted via facsimile machine or e-mail shall be permitted provided the quotation or proposal bears the signature of an authorized agent of the Bidder or Proposer submitting the quotation or proposal.
 - a. Quotations or proposals qualified in any manner are subject to rejection in whole or in part.
 - b. Alternate quotations or proposals shall be considered unless specifically stated otherwise in the Request for Quotation.
 - c. In the event of a discrepancy between the unit price and the extension price, the unit price shall govern.
 - d. In the event of tied quotes, the tie shall be broken according to the following, determined by the Director :
 1. Best and final Offer when determined by the Director to be applicable; or
 2. Drawing lots.
 - e. The City reserves the right to reject all quotations and seek new quotations with a new Request for Quotation.

These procedures do not supersede Article 2, "Applicability"; Article 18, "Sole Source"; Article 19, "Emergency Purchases"; Article 20, "Procurements From Solicitations By Other Governmental Entities".

Section 7.2 Vendor List

- A. Any vendor who would like to be on the City's vendor list must register with the City's Purchasing Section by completing a vendor application. The vendor application can be found on the City's website by clicking on City Hall/Department/Purchasing/Vendor Registration/Vendor Application.

- B. Once a vendor's application has been received and approved, the vendor will be assigned a vendor number and placed on the vendor list that will reference the products and/or services they provide.
- C. Vendors are encouraged to sign up for electronic bid notifications by clicking on a link "New Bid Notifications", which is where vendors subscribe to be set up to receive automatic bid notifications.

Section 7.3 *Vendor Awards*

- A. Contract award information is posted to the City's website and can be viewed by clicking on City Hall/Department/Purchasing/Bid Tabulation.

Section 7.4 *Quote File Requirements*

- A. Verbal and written quote files shall be set up, within the Purchasing Section, to retain for record keeping purposes.
- B. Verbal quote files shall be set up by the Purchasing Section for each purchase over **five thousand dollars (\$5,000)** and up to **fifteen thousand dollars (\$15,000)**.
- C. Written quote files shall be set up by the Purchasing Section for each purchase over **fifteen thousand dollars (\$15,000)** and up to **forty nine thousand nine hundred and ninety nine dollars (\$49,999)**.

ARTICLE 8 *AVAILABLE FUNDS*

Unencumbered funds to cover the entire purchase must be available in the appropriate account of the Operating Budget or other appropriate fund against which the purchase is to be charged prior to the commitment to purchase except multi-year contracts, in which case only funds for the first year of the contract need be appropriated.

Section 8.1 *Available Funds Identification*

- A. Solicitations pursuant to the formal bidding process may not be issued when using un-designated funds, contingency funds, or funds transferred between departments unless approved in writing by the Director of Management Services or appointed designee.
- B. Solicitations pursuant to Article 9, "Formal Procurement Process", shall not be issued prior to the appropriate approval for use of certain funds requiring budget transfers to or from capital and salary accounts.
- C. Solicitations pursuant to Article 9, "Formal Procurement Process", shall not be issued prior to the acceptance by the City Council of any grant funds, unless approved in writing by the Director of Management Services or appointed designee.
- D. Requestors are responsible for verifying available funds prior to submitting a purchase requisition and shall enter an electronic purchase requisition prior to requesting the issuance of a formal solicitation.

Section 8.2 *Petty Cash (Reserved)*

Section 8.3 *Procurement Cards (Reserved)*

ARTICLE 9 *FORMAL PROCUREMENT PROCESS*

Except as otherwise provided in this Procurement Code Manual, a procurement which exceeds the formal procurement limit specified in Article 7(B), "Formal Procurement Limit", shall be made in accordance with either Article 10, "Formal Procurement Process—Invitation for Bids", Article 11, "Formal Procurement Process—Request for Proposals" or Article 12, "Formal Procurement Process—Professional Design Services, Capital Improvements/Construction and Construction Services".

ARTICLE 10 *FORMAL PROCUREMENT PROCESS--INVITATION FOR BIDS*

The formal procurement process using an Invitation for Bids is typically used for the purchase of materials and capital improvements/construction projects, where the specifications and/or scope are definitively defined and the price is the determining factor in the award of a contract. The Invitation for Bids document shall include specifications and/or scope of work, and all terms and conditions applicable to the procurement. The contract's inception is with the Invitation for Bids document that outlines all of the terms and conditions as the contractual language and incorporates the successful Bidder's bid submittal, which is adopted by reference. The Invitation for Bids document contains an Offer and Contract Award form that is signed by both the successful Bidder and the Purchasing Agent, which consummates the contract award.

Section 10.1 *Invitation for Bids Determination*

The Purchasing Agent shall determine if the Invitation for Bids process is applicable for the selection of the material, service or construction with an estimated expenditure exceeding the formal bid limit.

Section 10.2 *Request for Issuance of an Invitation for Bids*

- A. The Requisitioner or "End-user" shall electronically submit a requisition referencing the cost estimate or approved budget for the requested material, service or construction.
- B. The Purchasing Agent shall obtain a bid number from the Solicitation Log Book in the Purchasing Section, provide the description of the purchase or project, the Purchasing Agent assigned and determine the appropriate solicitation document and agreement to be used.
- C. The Requisitioner or "End-user" shall provide the specifications and/or scope of work to the Purchasing Section to be incorporated into the bid solicitation. Once the bid solicitation is complete, the Purchasing Agent shall forward to the City Attorney's office for review before issuance of the solicitation.

Section 10.3 *Invitation for Bids*

An Invitation for Bids shall be issued when the evaluation and selection of a vendor for award is based on the lowest, responsive and responsible Bidder. The bid document shall include a

purchase description and all contractual terms and conditions applicable to the procurement.

- A. An Invitation for Bids shall be issued at least **twenty one (21) days** before the closing date and time for receipt of bids, unless a shorter time is determined necessary in writing by the Purchasing Agent pursuant to a written request from the requesting Department. However, in accordance with the Flagstaff City Charter, public notice of the Invitation for Bids shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the bids.
- B. Sealed Bids shall be opened publicly at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by rule, together with the name of each Bidder shall be recorded. The bids shall not be open for public inspection until after a contract is awarded, except to the extent the Bidder designates, and the Director concurs, that trade secrets or other proprietary data contained in the bid documents shall remain confidential in accordance with established rules.
- C. Bids shall be unconditionally accepted without alteration or correction, except as authorized in item (D) of this section. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids as prescribed in the procurement rules. No criteria may be used in bid evaluation that are not set forth in the Invitation for Bids.
- D. Correction or withdrawal of erroneous bids before or after bid opening, based on bid mistakes, may be permitted in accordance with established rules. After bid opening, no corrections in bid prices or other provisions of bids prejudicial to the best interest of the City or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Director.
- E. The contract shall be awarded to the lowest responsive and responsible Bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids. The amount of any applicable City of Flagstaff Transaction Privilege or Use Tax is not a factor in determining the lowest Bidder. The contract file shall contain the basis on which the award is made.
- F. The multi-step sealed bidding method may be used if the Director determines, in writing, that it is not practicable to initially prepare a definitive purchase description which is suitable to permit an award based on competitive sealed bidding. An Invitation for Bids may be issued requesting the submission of technical offers to be followed by an Invitation for Bids soliciting priced offers limited to those Bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation.

Section 10.4 *Invitation for Bids, Format, Content, Public Inspection*

- A. In all competitive sealed bidding procurements, the Purchasing Section shall issue the standard Invitation for Bids document established and approved by the Purchasing Section and the City Attorney's office.
- B. The Invitation for Bids shall include the following:

1. Instructions and information to Bidders concerning the bid submission requirements, including the time and date set for bid opening, the address of the office where bids are to be received, the period that the bid shall remain open, and any other special information;
 2. The purchase description, specifications, evaluation criteria, delivery or performance schedule, and inspection and acceptance requirements;
 3. The standard contract terms and conditions, including warranty and bonding or other security requirements, as applicable;
 4. If the Invitation for Bids incorporates documents by reference, the Invitation for Bids shall specify where such documents may be obtained;
 5. An Invitation for Bids may require the submission of bid samples, descriptive literature, technical data and may require inspection or testing of a product before award;
 6. Invitation for Bids shall require, from all Bidders, the submission of a non-collusion affidavit on a form included in the Invitation for Bids document. Failure of any Bidder to provide the non-collusion affidavit, as a part of his sealed bid, shall be grounds for disqualification of the bid; and
 7. Invitation for Bids shall be advertised, at least one (1) time, in the Arizona Daily Sun and posted to the City's website.
- C. Solicitations posted on the City's web site are available for downloading, as well as other means of obtaining a solicitation as follows:
1. Interested Bidders may subscribe to receive an e-mail based notification of all current solicitation opportunities;
 2. Interested Bidders may pick up solicitations from the Purchasing Section during normal business hours; or
 3. Interested Bidders can email the Purchasing Section and request an electronic copy of the solicitation via email.

Section 10.5 *Pre-Bid Conference*

A pre-bid conference may be conducted within a reasonable time before bid opening to discuss the procurement requirements and solicit comments from prospective Bidders. Pre-bid conferences may be held multiple times at the discretion of the Purchasing Agent and the end-user.

- A. Pre-bid conferences are typically non-mandatory, but prospective Bidders are highly encouraged to attend. Prospective Bidders who cannot physically attend, can conference in by phone. Prospective Bidders who choose this option will need to contact the Purchasing Agent, whose name is on the cover page of the bid document to get the phone number and conference ID number.

- B. Pre-bid conferences may be mandatory if the Purchasing Agent and end-user determine that the bid specifications are too complex and would warrant mandatory attendance at the pre-bid conference to discuss and ensure that prospective Bidders fully understand the specifications outlined in the bid document. Prospective Bidders who cannot physically attend, can conference in by phone. Prospective Bidders who choose this option will need to contact the Purchasing Agent, whose name is on the cover page of the bid document to get the phone number and conference ID number.
- C. Prospective Bidders who submit a bid in response to an Invitation for Bids, but did not attend a mandatory pre-bid conference (either physically or by phone) will be deemed nonresponsive and their bid shall not be considered for evaluation and award.

Section 10.6 *Addendum to Invitation for Bids*

- A. An Addendum to an Invitation for Bids shall be issued if necessary to:
 - 1. Make changes in the Invitation for Bids;
 - 2. Correct defects or ambiguities;
 - 3. Furnish to other Bidders information given to one Bidder if the information will assist the other Bidders in submitting bids, or if the lack of the information will prejudice the other Bidders; or
 - 4. Inform Bidders of alternate materials accepted for bid.
- B. An addendum to an Invitation for Bids shall be so identified and shall be posted to the City's web site and sent by the Purchasing Section to all persons who provided an "Acknowledgement of Receipt" form when practicable, depending on the number of prospective Bidders who submitted this form.
- C. All addendums shall be issued at least seven (7) days prior to bid opening to allow prospective Bidders to consider them in preparing their bids, unless a shorter time is determined necessary, in writing, by the Purchasing Agent pursuant to a written request from the requesting Department. If the time and date set for bid opening do not permit sufficient time for bid preparation, the time and date for bid opening shall be extended in the addendum or, if necessary, by fax, e-mail, or telephone and then confirmed in the addendum.

Section 10.7 *Pre-Opening Modifications or Withdrawal of Bids*

- A. Bidders may modify or withdraw their bid at any time before bid opening if the modification or withdrawal request is received in writing before the time and date set for bid opening in a location designated in the Invitation for Bids for receipt of bids.
- B. All documents concerning a modification or withdrawal of a bid shall be retained in the appropriate procurement file.

Section 10.8 *Late Bids, Late Withdrawals, and Late Modifications*

- A. A bid, modification or withdrawal is late and shall not be accepted if it is received at the location designated in the Invitation for Bids for receipt of bids after the time and date referenced in the solicitation document.
- B. A late bid, late modification, or late withdrawal shall be rejected unless the bid, modification, or withdrawal is received before contract award at the location designated in the Invitation for Bids for receipt of bids and would have been timely received but for the action or inaction of the City.
- C. Bidders submitting bids, modifications or withdrawals that are rejected as late shall be so notified as soon as practicable.
- D. All documents concerning a late bid, late modification, or late withdrawal shall be retained in the appropriate procurement file.
- E. All late bids shall be returned, unopened, to the vendor.

Section 10.9 *Receipt, Opening, Recording of Bids, and Confidential Information*

- A. Each bid and modification shall be date and time-stamped upon receipt and stored unopened in a secure place, within the Purchasing Section, until the time and date set for bid opening.
- B. Bids and modifications shall be opened publicly and in the presence of one or more witnesses at the time, date, and location designated in the Invitation for Bids for bid opening. The name of each Bidder, the bid price, and other information deemed appropriate shall be read aloud and recorded on a bid tabulation form. The name of the required witness shall also be recorded. All other information in a Bidder's bid package (e.g., trade secrets or other proprietary information, shall not be made available for public inspection until after a contract has been awarded, except to the extent the Bidder designates, and the Director concurs, that trade secrets or other proprietary data contained in their bid submittal shall remain confidential in accordance with established rules.
- C. All bids shall be irrevocable for, a minimum of, ninety (90) days or as deemed appropriate by the Director.
- D. After contract award, or at the Director's discretion, the bids shall be available for public inspection except to the extent that the withholding of information is permitted or required by law. If the Bidder designates a portion of the bid as confidential, disclosure of such portion shall be made in accordance with the following:
 - 1. If a Bidder believes that a bid contains information that should be withheld, a statement advising the Director of this fact shall accompany the submission, and the information shall be so identified wherever it appears. The information identified by the person as confidential shall not be disclosed until the Director makes a written determination;

2. The Director shall review the statement and information and shall determine in writing whether the information shall be withheld; and
3. If the Director makes the determination to disclose the information, the Director shall inform the Bidder in writing of such determination.

Section 10.10 *Mistakes in Bids*

- A. A Bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 10.7, "Pre-Opening Modification or Withdrawal of Bids".
- B. After bid opening, a bid mistake, not resulting from an error in judgment may not be corrected or withdrawn. Other bid mistakes may be corrected or withdrawn pursuant to the following:
 1. After bid opening, the Director may either waive minor informalities in a bid or allow the Bidder to correct them if a written determination is made that such action would not result in a pecuniary competitive bidding advantage to that Bidder. Nothing in this section shall be construed as requiring the Director to waive any informalities or to allow their correction.
 2. After bid opening, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.
 3. After bid opening, the Director may permit a Bidder to withdraw a bid if:
 - a. A mistake, not resulting from an error in judgment, is evident on the face of the bid but the intended bid; or
 - b. The Bidder establishes to the Director's satisfaction that a mistake was made not resulting in an error in judgment.
 4. In the event of a discrepancy between the unit price and a multiplied subtotal the unit price shall govern.
 5. Mistakes shall not be corrected after award of the contract except where the Director makes a written determination that it would be unconscionable not to allow the mistake to be corrected.
- C. If correction or withdrawal of a bid after the bid opening is permitted or denied, the Director shall prepare a written determination showing that the relief was permitted or denied under these established rules and regulations.

Section 10.11 *Bid Evaluation and Award*

- A. The contract shall be awarded to the lowest responsible and responsive Bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids.

- B. A product acceptability evaluation shall be conducted solely to determine whether a Bidder's product is acceptable as set forth in the Invitation for Bids and not whether one Bidder's product is superior to another Bidder's product. Any Bidder's offering that does not meet the acceptability requirements shall be rejected as non-responsive.
- C. Bids shall be evaluated to determine which Bidder offers the lowest cost to the City in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest Bidder. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs or life cycle cost formula. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the Director has available concerning future use.
- D. A contract may not be awarded to a Bidder submitting a higher quality item than that designated in the Invitation for Bids unless the Bidder is also the lowest Bidder as determined under Subpart C of this Section. This Section does not permit negotiations with any Bidder, unless the lowest, responsive and responsible Bidder's bid exceeds the available monies budgeted for the material, service or construction, which would allow negotiations with the lowest, responsive and responsible Bidder.
- E. In the event two or more low responsive bids from responsible Bidders are identical in price and meet all the requirements and criteria set forth in the Invitation for Bids, the tie shall be broken according to the following determined by the Director:
 - 1. Best and Final offer when determined by the Director to be applicable; or
 - 2. Draw lots
- F. A record showing the basis for determining the successful Bidder shall be retained in the procurement file.
- G. The Purchasing Agent involved with the purchase shall provide a written notice of award to the successful Bidder within **twenty-four (24) hours** of Council award. For procurements equal to or in excess of the formal procurement limit, each unsuccessful Bidder shall be notified in writing of the award within **fourteen (14) days**. Notice of award shall be made available to the public.

Section 10.12 Only One Bid Received

If only one responsive and responsible bid is received in response to an Invitation for Bids, an award may be made to the single Bidder if the Director determines that the price submitted is fair and reasonable, and that other prospective Bidders had reasonable opportunity to respond and there is not adequate time for re-solicitation. Otherwise, the bid will be rejected pursuant to the provisions of Article 15, "Cancellation or Rejection of Solicitations", and:

- A. New bids may be solicited; or
- B. If the Purchasing Agent determines, in writing, that the need for the material, service or construction continues and the acceptance of the one bid is not advantageous to the

City, the procurement may then be conducted under Article 18, "Sole Source" or Article 19, "Emergency Purchase", as appropriate.

Section 10.13 *Multi-Step Sealed Bidding*

- A. The multi-step sealed bidding method may be used if the Director determines that:
 - 1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each Bidder and the City;
 - 2. Definite criteria exist for evaluation of technical offers;
 - 3. More than one technically qualified source is expected to be available; and
 - 4. A fixed price contract will be used.
- B. The Purchasing Agent may hold a pre-bid conference with Bidders before submission or at any time during the evaluation of the unpriced technical offers.

Section 10.14 *Phase One Of Multi-Step Sealed Bidding*

- A. Multi-step sealed bidding shall be initiated by the issuance of an Invitation to Submit Technical Offers. The Invitation to Submit Technical Offers shall be issued according to Section 10.3, "Invitation for Bids", and shall contain the following information:
 - 1. Notice that the procurement shall be conducted in two phases;
 - 2. The best description of the material or services desired;
 - 3. A statement that unpriced technical offers only shall be considered in phase one;
 - 4. The requirements for the technical offers, such as drawings and descriptive literature;
 - 5. The criteria for evaluating technical offers;
 - 6. The closing date and time for receipt of technical offers and the location where offers should be delivered or mailed;
 - 7. A statement that discussions may be held; and
 - 8. A statement that only bids based on technical offers, determined to be acceptable in phase one, shall be considered for award.
- B. The Invitation to Submit Technical Offers may be amended after the submission of the unpriced technical offers. The amendment shall be distributed only to Bidders who submitted unpriced technical offers, and those Bidders shall be permitted to submit new unpriced technical offers or to amend the offers already submitted. If an amendment materially changes the procurement, the Invitation to Submit Technical Offers shall be canceled in accordance with Article 15, "Cancellation or Rejection of Solicitations".

- C. Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of the Procurement Agent and at least one witness. The contents of unpriced technical offers shall not be disclosed to unauthorized persons.
- D. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the Invitation to Submit Technical Offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the contract file. If the Director determines a Bidder's unpriced technical offer is unacceptable, the Purchasing Agent shall notify that Bidder of the determination and that the Bidder shall not be afforded an opportunity to amend its technical offer.
- E. The Purchasing Agent may conduct discussions with any Bidder who submits an acceptable or potentially acceptable technical offer. During discussions, the Purchasing Agent shall not disclose any information derived from unpriced technical offers to any other Bidder. After discussions, the Purchasing Agent shall establish a closing date for receipt of final technical offers and shall notify, in writing, Bidders submitting acceptable or potentially acceptable offers of the closing date. The Purchasing Agent shall keep a record of all discussions.
- F. At any time during Phase One, offers may be withdrawn in accordance with Section 10.7, "Pre-Opening Modifications or Withdrawal of Bids".

Section 10.15 Phase Two of Multi-Step Sealed Bidding

- A. Upon completion of Phase One, the Purchasing Agent shall issue an Invitation for Bids and conduct Phase Two under Section 10.3, "Invitation for Bids", as a competitive sealed bidding procurement, except that the Invitation for Bids shall be issued only to Bidders whose technical offers were determined to be acceptable in Phase One.
- B. Unpriced technical offers of unsuccessful Bidders shall not be open to public inspection until after a contract has been awarded, except to the extent set forth in Section 10.9, "Receipt, Opening, Recording of Bids and Confidential Information".

ARTICLE 11 FORMAL PROCUREMENT PROCESS – REQUEST FOR PROPOSALS

If the Director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals. The Purchasing Section shall issue the standard Request for Proposals document established and approved by the Purchasing Section and the City Attorney's office. A Request for Proposals shall be issued when the evaluation and selection of a vendor for award includes other established evaluation criteria in addition to price and/or the scope of work/specifications are not definitively defined. The Request for Proposal document shall include a scope of work, and all contractual terms and conditions applicable to the procurement.

Section 11.1 Request for Proposals Determination

The Purchasing Agent shall determine if the Request for Proposals process is applicable for the selection of the material or service. Request for Proposals shall not be used for design-bid-build

construction projects. However, a Request for Proposals may be used for any of the Alternative Project Delivery Methods (e.g., JOC, CMAR or Design-Build) as phase 2 of a Request for Statements of Qualifications process.

Section 11.2 *Request for Issuance of a Request for Proposals*

- A. The Requisitioner or “End-user” shall electronically submit a requisition referencing the cost estimate or approved budget for the requested material or service.
- B. The Purchasing Agent shall obtain a proposal number from the Solicitation Log Book, located in the Purchasing Section and provide the description and the Purchasing Agent assigned.
- C. The Requisitioner or “End-user” shall provide the specifications and/or scope of work to the Purchasing Section. Once the solicitation is complete, the Purchasing Agent shall forward to the City Attorney’s office for review before issuance of the solicitation.

Section 11.3 *Request for Proposals*

- A. Request for Proposals may be considered to be more practicable or advantageous if it is necessary to:
 - 1. Use a contract other than a fixed-price type;
 - 2. Conduct oral or written discussions with Proposers concerning technical and price aspects of their proposals;
 - 3. Afford Proposers an opportunity to revise their proposals;
 - 4. Compare the different price, quality, and contractual factors of the proposals submitted;
 - 5. Award a contract in which price is not the determining factor; and/or
 - 6. Specifications and/or scope of work are not clear or well-defined.
 - 7. Proposals shall be opened publicly at the time and place designated in the Request for Proposals. Only the name of each Proposer shall be publicly read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing Proposers during the process of evaluation. The proposals shall be open for public inspection after contract award. Except to the extent the Proposer designates and the Director concurs, trade secrets or other proprietary data contained in the proposal documents shall remain confidential in accordance with established rules.
 - 8. Specific numerical weighting is not required. However, the Request for Proposal document shall state the relative importance of price and other evaluation factors.

9. As provided in the Request for Proposals, and under established rules, discussions may be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and before award for the purpose of clarification. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers.
 10. The award shall be made to the responsible Proposer whose proposal is determined in writing to be the most advantageous to the City taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria may be used in the evaluation. The amount of any applicable City Transaction Privilege or Use Tax is not a factor in determining the most advantageous proposal. The contract file shall contain the basis on which the award is made.
- B. Request for Proposals shall set forth those factors listed in Section 10.4, "Invitation for Bids, Format, Content, Public Inspection" that are applicable and shall also state:
1. The type of materials or services required and a description of the work involved;
 2. The type of contract to be used;
 3. An estimated duration that the service will be required;
 4. That cost or pricing data is required;
 5. That discussions may be conducted with Proposers who submit proposals determined to be reasonably susceptible of being selected for award;
 6. The minimum information that the proposal shall contain;
 7. The closing date and time for receipt of proposals; and
 8. The evaluation criteria that will be used to evaluate proposal responses. Numerical weighting is not required. However, the Request for Proposal document shall reference each evaluation criterion's relative importance.
- C. A Request for Proposals shall be issued at least **twenty one (21) days** before the closing date and time for receipt of proposals, unless a shorter time is determined necessary in writing by the Director pursuant to a written request from the requesting Department receiving the materials or services. In accordance with the Flagstaff City Charter, public notice of the Request for Proposals shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the proposals.
- D. In all competitive sealed Request for Proposals, the Purchasing Section shall issue a Request for Proposals using a solicitation document approved by the Purchasing Section and the City Attorney's office.

Section 11.4 *Solicitation Opportunities*

1. Solicitations shall be advertised in the Arizona Daily Sun and posted on the City's website. Prospective Proposers can download the solicitation and all other related documents at: flagstaff.az.gov/departments/purchasing/bidpostings-overview. After the heading "Bids available for download," click on "bid postings". All solicitations may be picked up from the Purchasing Section during normal business hours.
2. Interested Bidders can download and complete a Vendor Application form from the City's website. The Vendor Application form allows a Vendor to subscribe to receive an e-mail based notification of all current solicitation opportunities.

Section 11.5 *Pre-Proposal Conferences*

Pre-proposal conferences may be convened in accordance with the same procedures outlined in Section 10.5, "Pre-Bid Conferences".

Section 11.6 *Late Proposals, Modifications or Withdrawals*

- A. A proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in Section 10.8, "Late Bids, Late Withdrawals and Late Modifications". A best and final offer received after the closing date and time for receipt of best and final offers is late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8 (B), "Late Bids, Late Withdrawals and Late Modifications".
- B. A modification of a proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8(B), "Late Bids, Late Withdrawals and Late Modifications".
- C. A modification of a proposal resulting from an addendum issued after the closing date and time for receipt of proposals or a modification of a proposal resulting from discussions during negotiations shall be considered if received by the closing date and time set forth in the addendum or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances in accordance with the same procedures outlined in Section 10.8 (B), "Late Bids, Late Withdrawals and Late Modifications".
- D. A proposal may be withdrawn at any time before the closing date and time for receipt of best and final offers. Withdrawal of a proposal after submission of best and final offers is permissible only in accordance with Section 11.11 (B), "Mistakes in Proposal Response".

Section 11.7 *Receipt of Proposals*

- A. Each proposal received shall be date and time-stamped and retained in a secure place, within the Purchasing Section, until the closing date and time for receipt of proposals. A

record of proposals shall be prepared and shall contain the name of each Proposer, the subject of the Request for Proposals and the assigned Request For Proposals number for which the proposal was submitted.

- B. Proposals shall be opened in the presence of one (1) or more witnesses. During the evaluation process, proposals and modifications shall be shown only to those individuals involved in the evaluation and scoring process.
- C. If only one proposal is received in response to a Request for Proposals, the Purchasing Agent may either make an award in accordance with Section 11.12, "Contract Award for Request for Proposals", or if time permits, re-solicit.

Section 11.8 *Evaluation of Proposals*

- A. Evaluation of proposals shall be based on the evaluation criteria set forth in the Request for Proposals.

Section 11.9 *Discussions with Responsible Proposers and Revisions to Proposal*

- A. Discussions may be conducted with responsible Proposers who submit proposals determined to be reasonably susceptible of being selected for award; for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussions and revision of proposals, and such revisions may be permitted after submissions and prior to award, for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers. The purpose of such discussions may be to:
 - 1. Determine in greater detail such Proposer's qualifications;
 - 2. Explore with the Proposer the scope and nature of the project, the Proposer's proposed presented approach, the relative utility of alternate methods of approach and method of performance;
 - 3. Determine that the Proposer will make available the necessary personnel and facilities to perform within the required time; and
 - 4. Agree upon compensation which is fair and reasonable, taking into account the estimated value of the required services/equipment, the scope and complexity of proposed project and nature of such services/equipment.
- B. After an evaluation committee has reviewed all of the initial proposals, discussions may be held between the responding Proposers and the evaluation committee. Such discussions are conducted to more fully understand the initial proposals submitted by the Proposers.
- C. Following the initial proposal review and discussions phase, the evaluation committee may either recommend an award to a specific firm or firms, if their proposal is clearly the best offer, or further define the RFP's needs within the scope of the original RFP and call for best and final offers.

- D. Proposal information may not be disclosed to any other Proposer. Each Proposer's information and pricing shall be kept under strict security until after an award recommendation has been made.
- E. All responsive and responsible Proposers are to be given a fair and equal opportunity to respond to any narrowed scope/specification needs stated within the written best and final offer document that may be issued by the Director. If the evaluation process clearly proved (with supportive evidence) that certain Proposers were incapable of meeting the scope and needs of the RFP in a satisfactory manner, then those Proposers may be removed from further consideration during the best and final offer phase of the RFP evaluation process. The criteria for being removed from best and final consideration must be well documented and placed in the bid/contract file.
- F. Best and final offers shall be requested in formal writing by the Purchasing Section and a reasonable time period given to Proposers for making a quality response. Any requested, best and final offer shall be within the scope of the original RFP and used to further identify and clarify specific service/product needs and appropriate pricing requirements based on those further clarified needs. .

Section 11.10 *Best and Final Offers; Tied Proposals*

- A. If discussions are conducted pursuant to Section 11.9, "Discussions With Responsible Proposers and Revisions to Proposal", the Purchasing Agent shall issue a formal written request for best and final offers. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the Purchasing Agent makes a written determination that it is advantageous to the City to conduct further discussions or change the City's requirements. The request for best and final offers shall inform Proposers that, if they do not submit a best and final offer, their immediate previous offer will be construed as their best and final offer.
- B. In the event of tied proposals, the tie shall be broken according to the following determined by the Director:
 - 1. Best and final offer when determined by the Director to be applicable; or
 - 2. Draw lots.

Section 11.11 *Mistakes in Proposal Response*

- A. Prior to the time and date set for receipt of best and final offers, any Proposer may withdraw their best and final offer or correct any mistake by modifying their best and final offer.
- B. Proposers submitting a best and final offer, may withdraw a proposal or correct a mistake after the specified due date, in accordance with Section 10.10, "Mistakes in Bids".

Section 11.12 *Contract Award for Request for Proposals*

- A. The contract shall be awarded to the Proposer whose proposal is responsive and responsible and determined in writing to be the most advantageous to the City based on the factors set forth in the Request for Proposals. The determination shall explain the basis of the award.
- B. If the Contract(s) awarded exceeds the formal procurement limit, each unsuccessful Proposer shall be notified in writing of the award.
- C. After contract award or as determined by the Purchasing Agent, the proposals shall be open for public inspection, except to the extent that the withholding of information is permitted or required by law. If the Proposer designates a portion of the proposal as confidential, disclosure of such portion shall be made in accordance with the following:
 - 1. If a Proposer believes that a proposal contains information that should be withheld, a statement advising the Purchasing Agent of this fact shall accompany the submission and the information shall be so identified wherever it appears. The information identified by the Proposer as confidential shall not be disclosed until the Purchasing Agent makes a written determination;
 - 2. The Purchasing Agent shall review the statement and information and shall determine in writing whether the information shall be withheld; and
 - 3. If the Purchasing Agent makes the determination to disclose the information, the Purchasing Agent shall inform the Proposer in writing of such determination.

ARTICLE 12 *FORMAL PROCUREMENT PROCESS – PROFESSIONAL DESIGN SERVICES, CAPITAL IMPROVEMENTS/CONSTRUCTION AND CONSTRUCTION SERVICES*

The formal procurement process for professional design services and capital improvements/construction projects utilizes different solicitation documents than the Request for Proposals. If the procurement is for professional design services, the Purchasing Agent shall utilize the Request for Statements of Qualifications solicitation. If the procurement is for capital improvements/construction, the Purchasing Agent shall utilize the Invitation for Bids (IFB) or one of the Alternative Project Delivery Methods, such as Construction Manager At Risk (CMAR), Design Build (DB) or Job Order Contracting (JOC), as deemed appropriate. If any of the Alternative Project Delivery Methods are utilized, the solicitation and contract award shall be based on “qualifications” or “Best Value” utilizing the Request for Statements of Qualifications (RSOQ). In the event a decision is made by the Purchasing Agent to have a phase 2 of the solicitation process, a Request for Proposals may be used to include pricing information. Both the Request for Statements of Qualifications and the Request for proposals documents shall include specifications and/or scope of work, and all contractual terms and conditions applicable to the procurement.

Section 12.1 *Request for Solicitation Determination*

The Purchasing Agent shall determine if the Invitation for Bids or one of the Alternative Project Delivery Methods, followed by a Request for proposals, if there is a phase 2, is more

appropriate for the selection of the service or construction with an estimated expenditure exceeding the formal procurement limit.

Section 12.2 *Request for Issuance of a Formal Solicitation*

- A. The Requisitioner or “End-user” shall electronically submit a requisition referencing the cost estimate or approved budget for the requested service or construction.
- B. The Purchasing Agent shall obtain a bid number from the Solicitation Log Book in the Purchasing Section, provide the description of the purchase or project, the Purchasing Agent assigned and determine the appropriate solicitation document and agreement to be used.
- C. The Requisitioner or “End-user” shall provide the specifications and/or scope of work to the Purchasing Section. Once the solicitation is complete, the Purchasing Agent shall forward to the City Attorney’s office for review before issuance of the solicitation.

Section 12.3 *Professional Design Services*

Professional Design Services are those services that are legally required to be accomplished, reviewed and approved by professionals registered to practice in the State of Arizona and pertain to the following professional services:

- 1. Architect services
- 2. Engineering services
- 3. Assayer services
- 4. Geologist services
- 5. Landscape Architect services
- 6. Land Surveying services

Contracts for these professional design services shall be solicited through a Request for Statements of Qualifications, except as otherwise provided for in Article 18, Sole Source, Article 19, Emergency Purchase, or Article 20, “Procurements From Solicitations by Other Governmental Entities”. The Purchasing Section shall issue the standard Request for Statements of Qualifications document established and approved by the Purchasing Section and the City Attorney’s office. All contracts for professional services referenced above, shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.

The Request for Statements of Qualifications shall be issued at least **twenty one (21) days** before the closing date and time for receipt of statements of qualifications, unless a shorter time is determined necessary in writing by the Director. In accordance with the Flagstaff City Charter, public notice of the Request for Statements of Qualifications shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of statements of qualifications.

Section 12.4 *Capital Improvements/Construction*

- A. Capital Improvements is the construction related projects involving the process of building, altering, repairing, improving or demolishing any public structure or building or

other public improvements of any kind to any public real property, which extends the life or increases the productivity of the real property. Construction is the process of building, altering, repairing, improving or demolishing any public infrastructure facility, including public structure, public building, or other public improvements of any kind to any real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing public infrastructures or facilities, including structures, buildings or real property.

- B. Contracts for capital improvements/construction shall be solicited utilizing an Invitation for Bids process or one of the Alternative Project Delivery Methods, except as otherwise provided for in Article 18, "Sole Source" or Article 19, "Emergency Purchase".
- C. The Purchasing Section shall issue the appropriate, selected, solicitation document established and approved by the Purchasing Section and the City Attorney's office.
- D. All contracts for Capital Improvements/construction shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.
- E. Bidders shall submit subcontractor lists for all subcontracts that are above \$5,000. Bids not in compliance with this requirement shall be deemed non-responsive. Submission of the subcontractor list shall act as Bidder certification that the work shall be performed by either the Bidder or the listed subcontractors. Substitutions may be allowed for reasons including, but not limited to, subcontractor non-responsiveness, insolvency, or any other reason deemed by the Director to be in the best interest of the City.

Section 12.5 Construction Services

Construction Services is a combination of construction and one or more related services, such as finance services, maintenance services, operations services, design services and pre-construction services, as these services are authorized in the definitions of Construction Manager at Risk, Design Build or Job Order Contracting as follows:

- A. Construction-Manager-At-Risk is a project delivery method in which:
 - 1. There is a separate contract for design services and a separate contract for construction services;
 - 2. The contract for construction services may be entered into at the same time as the contract for design services or at a later time;
 - 3. Design and construction of the project may be in sequential phases or concurrent phases; and
 - 4. Finance services, maintenance services, operations services, preconstruction services, and other related services may be included.
- B. Design-Build is a project delivery method in which:

1. There is a single contract for design services and construction services;
 2. Design and construction of the project may be in sequential phases or concurrent phases; and
 3. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
- C. Job-Order-Contracting is a project delivery method in which:
1. The contract is a requirements contract for indefinite quantities of construction;
 2. The construction to be performed is specified in job orders issued during the contract;
 3. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included; and
 4. The project limit shall be set by the Director in accordance with A.R.S. Title 34, Public Buildings and Improvements.
- D. Design-Bid-Build is the traditional project delivery method, other than the three (3) alternative project delivery methods, referenced above, in which:
1. There is a sequential award of two (2) separate contracts;
 2. The first contract is for design services;
 3. The second contract is for the actual construction;
 4. Design and construction of the project are in sequential phases; and
 5. Finance services, maintenance services and operations services are not included.

Contracts for construction services shall be solicited through a construction-manager-at-risk, design-build or job-order-contracting selection process utilizing a Request for Statement of Qualifications, except as otherwise provided for in Article 18, "Sole Source" or Article 19, "Emergency Purchase". The Purchasing Section shall issue the standard Request for Statements of qualifications document established and approved by the Purchasing Section and the City Attorney's office. All contracts for professional services referenced above, shall be awarded and administered in accordance with the requirements of A.R.S. Title 34, Public Buildings and Improvements and the appropriate Article or Section of this Procurement Code Manual.

The Request for Statements of Qualifications shall be issued at least **twenty one (21) days** before the closing date and time for receipt of statements of qualifications, unless a shorter time is determined necessary in writing by the Director. In accordance with the Flagstaff City Charter, public notice of the Request for Statements of Qualifications shall be published at least

once in the official newspaper, not less than five (5) days prior to the opening of statements of qualifications.

ARTICLE 13 **FORMAL SOLICITATION ADVERTISING**

- A. The Purchasing Agent shall advertise all formal solicitations as follows:
 - 1. Invitation for Bids--- At least one (1) time in a local newspaper of general circulation no less than five (5) days prior to bid opening.
 - 2. Request for Proposals—At least one (1) time in a newspaper of general circulation no less than five (5) days prior to proposal opening.
 - 3. Request for Statements of Qualifications--- At least two (2) consecutive times in a newspaper of general circulation no less than six (6) days apart and no more than ten (10) days apart prior to the statement of qualifications opening. The opening shall not be less than five (5) days from the last advertisement.
- B. The requisitioning department shall budget for this required advertising.
- C. The City web site references all formal solicitation opportunities.
- D. The Purchasing Section may mail a notice of solicitation and any addendums to persons listed on the City Bidder's List and any person requesting the information. Bidnet, Arizona Procurement Technical Assistance Network, Construction News, Dodge, and other resources deemed appropriate by the Purchasing Section may be included in mailing lists for all applicable solicitations. All solicitations listed on the City's web site are available for downloading. Interested Bidders may subscribe to receive an e-mail based notification of all current solicitation opportunities by downloading and completing a vendor application from the City's website. The vendor application can be found by going to the City's website home page, clicking on City Hall, and then Departments, and then Purchasing and then vendor registration and then the link for vendor application.
- E. All solicitations may be picked up from the Purchasing Section during normal business hours. For construction related projects involving plan sets, the City's Project Manager assigned to the project or a designee within their Division or Section shall be responsible for providing and logging plan sets requested by prospective Proposers.
- F. The Purchasing Section shall be responsible for scheduling bid or proposal openings and required pre-bid or pre-proposal conferences and post award meetings.
- G. The Purchasing Agent shall determine and coordinate any necessary addendums and issue any required addendums, receive bids or proposals and conduct bid or proposal openings.
 - 1. Only the Purchasing Section may supply interested persons with official copies of formal solicitations; and
 - 2. Only a Purchasing Agent may issue a Notice of Award or a Notice to Proceed.

ARTICLE 14 **EVALUATION/SELECTION COMMITTEE FOR MATERIALS, SERVICES, PROFESSIONAL DESIGN SERVICES AND CONSTRUCTION**

All vendor responses to formal solicitations that contain evaluation criteria, in addition to price, shall be evaluated and scored by an evaluation/selection committee according to the following:

- A. The committee shall review and evaluate vendor responses according to the evaluation criteria referenced in the solicitation document. All committee members shall score each vendor according to the scoring matrix provided by the Purchasing Agent.

Section 14.1 Guidelines for Evaluation/Selection Committee; Selection Process

A. **Appoint Evaluation/Selection Committee for Materials and Services:**

1. The selection of Evaluation Committee members shall be determined, collectively, by the Purchasing Agent and the end-user. The evaluation committee shall consist of at least three (3) people, but preferably five (5) people. For any evaluation committee comprised of more than three (3) members, the committee shall consist of an odd number of members. Committee membership shall be a diverse group familiar with the elements contained in the Scope of Work.
2. Evaluation Committee membership is not restricted to City employees. However, committee members may not receive compensation, present a proposal, nor be affiliated with a person presenting a proposal.
3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

B. **Appoint Evaluation/Selection Committee for Professional Design Services:**

1. The selection of Evaluation Committee members shall be initiated and determined, collectively, by the Purchasing Agent and the City Project Manager assigned to the project. The evaluation committee shall consist of at least five (5) members, but no more than seven (7) members and shall include at least one (1) member who is a senior management employee of a licensed Contractor and one (1) member who is an Architect or Engineer registered in the State of Arizona. The remaining evaluation committee membership shall be a diverse group familiar with the elements contained in the Scope of Work. A member on the evaluation committee, who is not an employee of the City, shall not be a Contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract.
2. These members may be employees of the City or not an employee of the City. Members who are not employees of the City, outside Contractors, Architects and Engineers serving on an evaluation committee, are not entitled to receive compensation from the City for performing this service, nor be affiliated with a person submitting a statement of qualifications. However, the City may elect to

reimburse members who are not employees of the City, outside Contractors, Architects and Engineers for travel, lodging and other expenses incurred in connection with service on an evaluation committee.

3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

C. *Appoint Evaluation/Selection Committee for Construction (utilizing a Request for Statements of Qualifications solicitation):*

1. The selection of Evaluation Committee members shall be initiated and determined, collectively, by the Purchasing Agent and the City Project Manager assigned to the project. The evaluation committee shall consist of at least five (5) members, but no more than seven (7) members and shall include at least one (1) member who is a senior management employee of a licensed Contractor and one (1) member who is an Architect or Engineer registered in the State of Arizona. The remaining evaluation committee membership shall be a diverse group familiar with the elements contained in the Scope of Work. A member on the evaluation committee, who is not an employee of the City, shall not be a Contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract.
2. These members may be employees of the City or not an employee of the City. Members who are not employees of the City, outside Contractors, Architects and Engineers serving on an evaluation committee, are not entitled to receive compensation from the City for performing this service, nor be affiliated with a person submitting a statement of qualifications. However, the City may elect to reimburse members who are not employees of the City, outside Contractors, Architects and Engineers for travel, lodging and other expenses incurred in connection with service on an evaluation committee.
3. Evaluation Committee members may be required to attend a training session on the elements of evaluating proposal responses from Proposers and the various elements to be scored, given the evaluation criteria outlined in the solicitation document.

Section 14.2 *Guidelines for the Selection of Evaluation Criteria Used in a Solicitation Advertised as an Invitation for Bids, Request for Proposals or a Request for Statements of Qualifications*

- A. Evaluation criteria are determined by the Director and the end-user or City Project Manager. Evaluation criteria shall be objectively measurable and allow for the evaluation, selection and award of a contract in the best interest of the City.
- B. All solicitations advertised as a Request for Statements of Qualifications shall include the evaluation criterion "Value Added Knowledge and Experience" as follows:

Value Added Knowledge and Experience (10 points/10%)

The team hired by the City must be familiar with local community needs, standards, historical challenges, local codes and site conditions. Additionally, the team must be accessible to City staff and citizens (e.g., public hearings, neighborhood meetings and other citizen outreach identified in the Request for Statements of Qualifications) during the contracted design and construction phase of the Project.

1. Resolution of issues may be part of the project work. Describe your response protocol and how the firm's Project Manager (or responsible person in charge) will be accessible to City staff and citizens.
 2. Explain why your firm is particularly qualified to perform your services in the Flagstaff area. Demonstrate the Project Manager's (or responsible person in charge) knowledge of local geology, climate, practices, materials and codes by specifying in the submittal their experience working in the Northern Arizona region or in a region with geology, climate and conditions similar to those of the City of Flagstaff.
 - a. Briefly describe two of your most recent projects that were performed in the greater Flagstaff area as defined by the Regional Plan and/or Flagstaff Metropolitan Planning Organization (FMPO) boundaries.
 3. During construction what is the response time by a qualified person (decision making authority) to meet in person and resolve concerns and to accommodate unforeseen issues?
- C. The Director may establish a specific weight percentage for each Value Added Knowledge and Experience sub-section, not to exceed the total 10 points or 10% assigned for all of the Value Added Knowledge and Experience evaluation criterion.

ARTICLE 15 **CANCELLATION OR REJECTION OF SOLICITATIONS**

An Invitation for Bids, a Request for Proposals or Request for Statements of Qualifications may be canceled by the Director prior to the solicitation opening. However, all bids, proposals or statements of qualifications submitted by a Bidder or proposer may be rejected after the solicitation opening, but the rejection of solicitation shall be approved by City Council as provided in the City Charter.

Section 15.1 ***Solicitation Statement***

Each solicitation issued by the City shall state that the solicitation may be canceled or bids or proposals rejected in whole or in part.

Section 15.2 ***Cancellation of Solicitation Before Bids or Proposals Are Due***

- A. Before bids or proposals are due, a solicitation may be canceled if the Purchasing Agent determines that cancellation is advantageous to the City.
- B. If a solicitation is canceled before bids or proposals are due, notice of cancellation shall be posted to the City website and sent to all prospective Bidders or Proposers who completed and provided to the Purchasing Section an Acknowledgment of Receipt form

when practicable, depending on the number of prospective Bidders who submitted this form. The notice of cancellation shall identify the solicitation and briefly explain the reason for cancellation.

- C. Any bids or proposals received by the City for a canceled solicitation shall be returned to the Bidder or Proposer unopened.

Section 15.3 *Cancellation of Solicitation After Bids or Proposals Are Due*

- A. After opening of bids or proposals, but before award, a solicitation may be canceled if the Purchasing Agent determines that cancellation is advantageous to the City.
- B. A notice of cancellation shall be sent to all Bidders or Proposers submitting bids or proposals.
- C. Bids or proposals received shall be placed in a sealed file pending a decision of a rebid of the solicitation. In the event of a rebid of the solicitation, the file shall remain sealed until an award is made.

Section 15.4 *Rejection of All Solicitations*

- A. After receipt, opening and evaluation, but before award, all solicitations may be rejected if determined to be in the best interest of the City. However, any recommendations for a solicitation to be rejected shall be approved by the City Council.
- B. A notice of rejection shall be sent to all Bidders or Proposers submitting bids or proposals.

Section 15.5 *Procurement Procedural Irregularity*

The Purchasing Agent shall act to cancel or reject in the event that action is deemed in the best interest of the City due to a procurement procedural irregularity.

ARTICLE 16 *DETERMINATION OF BIDDER AND PROPOSER RESPONSIBILITY*

- A. The Purchasing Agent shall consider the responsibility of any vendor prior to purchasing materials or services from such vendor. The Purchasing Agent shall prepare a written evaluation of a vendor's responsibility for any procurement for services or materials of \$50,000 or more. The evaluation will be placed in the vendor's file.
- B. Factors to be considered in determining if a vendor is responsible include those set forth below. Any single factor or combination of factors may be grounds for determination of non-responsibility.
 - 1. The vendor's capacity to do the work, including adequate finances, equipment, facilities, employees and competing commitments;
 - 2. The competency and responsibility of the vendor's proposed subcontractors;
 - 3. The vendor's experience in performing similar work;

4. The vendor's integrity and record of performance:
 - a. Positive factors include but are not limited to timely completion within budget, quality of work, prompt resolution of problems, good working relationships and the ability to resolve disputes without litigation;
 - b. Negative factors include but are not limited to past contract terminations or deductions due to failure to perform; termination for cause due to breach; failure to comply with the contract; documented poor performance; customer complaints and/or negative references; unresolved disputes with project owners or subcontractors; and litigation without merit. In addition, any of the grounds set forth in Article 30 for suspension or debarment may be considered.
 5. The vendor is qualified legally to contract with the City;
 6. Whether the vendor has truthfully supplied all information concerning its responsibility requested by the Purchasing Agent; and
 7. Whether the vendor holds any required and active valid State of Arizona license(s) to conduct business or to perform the work proposed.
 8. Any other evaluation criteria listed in the solicitation. Examples of other evaluation criteria include but are not limited to: requirement of a balanced bid, requirement that the bid or proposal identify the percentage and cost of work that each subcontractor will perform and a cap on the total project value that can be completed by subcontractors, or requirement that no work shall be subcontracted.
- C. The Purchasing Agent may establish specific responsibility criteria for a particular procurement. All responsibility criteria shall be listed in the solicitation. The solicitation should specify that "The responsibility of the Bidder will be determined based on factors described in Article 16 of the Procurement Code Manual.
- D. If the Purchasing Agent determines that a vendor is non-responsible, the determination shall be approved by the Director and in consultation with the City Attorney, shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the non-responsible Bidder or Proposer. The Bidder or Proposer may protest the determination by following Article 29, "Protests", Sections 29.1 through 29.6. If the Director in consultation with the City Attorney determines the Bidder or Proposer is non-responsible, no further administrative remedy is available, as the City will not conduct a hearing. The Bidder or Proposer has no due process right to a hearing, but may have the right to file a special action, see *Grand Canyon Pipelines, Inc. v. City of Tempe*, 816 P.2d 247 (Ariz. App 1991). The final determination shall be made part of the procurement file.
- E. If a contractor desires to substitute a subcontractor at any time after contract award, the Director shall evaluate the competency and responsibility of the proposed new subcontractor. The contractor shall submit complete information to the City and the City shall not be liable for any damages for project delays resulting from such substitution. The City reserves the right to reject substitution of contractors where the contractor was

selected in part due to the unique and special skills or knowledge of such subcontractor and if the solicitation clearly provides that the City may reject substitution of such subcontractor.

Section 16.1 *Request for Review of Responsibility*

- A. In the event a Purchasing Agent has cause to question the responsibility of the low Bidder or highest scoring Proposer, a formal letter shall be sent to the Bidder or Proposer containing all information available, including the specific areas where responsibility evidence is desired. In the event the low bid appears to be underbid, unbalanced or not financially viable, the Purchasing Agent may require the low Bidder to provide an accounting, showing that the work can be completed at the bid price.
- B. Information supplied by the Bidder or Proposer shall be evaluated by the Purchasing Agent.
- C. In the event the Bidder or Proposer is determined non-responsible, the Bidder or Proposer shall be notified in writing of the decision.

ARTICLE 17 *COST OR PRICING DATA*

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable and fair. A Bidder or Proposer shall, when requested, submit current cost or pricing data and shall certify that, to the best of the Bidder's or Proposer's knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date.
- B. This certification may also be requested to substantiate requests for price adjustments for contracts with options to extend and any contract modification or change order.
- C. This certification may also be requested to substantiate requests for cost reimbursements pursuant to the specific terms and conditions contained in a City contract.

Section 17.1 *Reimbursement*

Provisions for reimbursement of costs shall, where applicable, be included in the terms of the contract and it shall be required that written approval of the Procurement Agent be obtained by the Bidder or Proposer prior to incurring costs to be reimbursed.

ARTICLE 18 *SOLE SOURCE*

- A. A contract may be awarded for a material, service or construction without competition if the Purchasing Agent determines in writing that there is only one source for the required material or service. The Director may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. The written determination of the basis for the sole source procurement shall be included in the contract file.

- B. The Purchasing Agent shall negotiate with the sole source Bidder or Proposer, to the extent practicable, a contract advantageous to the City.
- C. Sole Source purchases authorized by the Purchasing Agent, which exceed the formal procurement limit, shall be awarded pursuant to Article 26, "Award of Contract".

Section 18.1 Sole Source, Evidence Request

- A. Sole Source procurement shall not be used unless there is clear and convincing evidence that there is only one source as determined by the Purchasing Agent.
- B. In the event a Department or Division requests a Sole Source procurement, written evidence and report of research to support the request shall be provided to the Purchasing Agent.
- C. Negotiations involving Sole Source purchases shall not commence until the Purchasing Agent has approved the Sole Source purchase.

Section 18.2 Sole Source Justification

- A. Justification for sole source purchases, at **five thousand and one dollars (\$5,001)** and greater, are required.
- B. The Purchasing Agent shall approve, prior to any negotiation, any Sole Source purchase over **five thousand dollars (\$5,000)** pursuant to Section 18.1, "Sole Source, Evidence Request".
- C. A sole source agreement at **five thousand and one dollars (\$5,001)** and up to **forty nine thousand nine hundred and ninety nine dollars (\$49,999)** may be approved by the Director for a period up to five (5) years based on City requirements and market conditions. A sole source agreement at **fifty thousand (\$50,000)** and greater, shall be approved by City Council for a period up to five (5) years.

ARTICLE 19 EMERGENCY PURCHASE

- A. Notwithstanding any other provision in this Procurement Code Manual, the Director may make or authorize others to make emergency procurements if there is a threat to public health, welfare, or safety or if a situation exists which makes compliance with the procurement process specified in Articles 10, "Formal Procurement Process—Invitation For Bids", Article 11, "Formal Procurement Process—Request For Proposals" and Article 12, "Formal Procurement Process—Professional Design Services, Capital Improvements/Construction And Construction Services" contrary to the public interest. Emergency procurements shall be made with such competition as is practicable under the circumstances.
- B. A written determination of the basis for the emergency and for the selection of the particular Bidder or Proposer shall be included in the contract file.
- C. Emergency purchases authorized by the Director which exceed the formal procurement limit, shall be reported to the City Council, as a confirming payment.

Section 19.1 *Conditions for Emergency Purchase*

An emergency shall be deemed to exist if:

- A. There is a great public calamity;
- B. There is immediate need to prepare for national or local defense;
- C. There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies or services to protect the public health, welfare or safety; or
- D. An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed formal or informal purchasing procedure would cause an undue delay in procurement of the needed item or service.

Section 19.2 *Emergency Purchase Procedure*

- A. If the emergency occurs during Purchasing Office hours, the requesting department shall contact the Director or a Purchasing Agent who shall procure or authorize the procurement of the necessary materials, services or construction and fully document the purchase.
- B. In the event the emergency occurs after Purchasing Office hours, any City employee may make any necessary procurement after receipt of authorization from the Department's or Division's Manager or Supervisor.
 - 1. By the next working day, a full report of the circumstances of the emergency purchase shall be made by the person making the purchase. The report shall be filed with the Director for inclusion in the appropriate Purchasing records; and
 - 2. If the purchase exceeded the formal bid limit, the Director and the City employee who made the emergency purchase, shall seek approval of the purchase from the City Council as a confirming payment.

ARTICLE 20 *PROCUREMENTS FROM SOLICITATION BY OTHER GOVERNMENTAL ENTITIES*

The City may enter into contracts for the procurement of materials, services or construction pursuant to specifications, solicitations or contracts issued by other governmental entities. Such purchases shall conform to state procurement statutes and the Purchasing Agent involved shall conduct due diligence and conclude that the solicitations or contracts issued by other governmental entities conform to the purpose and spirit of this Procurement Code Manual.

Section 20.1 *Existing Contracts*

- A. When making a purchase that conforms to the purpose and spirit of this Procurement Code Manual and the purchase exceeds the City's formal bid limit, the Director shall place a written justification for the use of a contract issued by another governmental agency in the City's contract file, provided the Bidder or Proposer is willing to extend the contract to the City and the Purchasing Agent and the requesting Division obtains City Council approval prior to making the purchase.

- B. The Purchasing Agent shall execute a Purchase Order or Notice of Award referencing the applicable contract of the soliciting entity.

Section 20.2 *Joint Solicitations*

- A. When the City intends to purchase materials or services with another governmental agency through a contract with that agency and the selected Bidder or Proposer, the City may participate in any solicitation issued by that governmental agency provided:
 - 1. The Procurement Officer of the other governmental agency invites the participation or responds positively to a request by the City to participate;
 - 2. The terms and conditions of the lead agency's solicitation have been reviewed by the Purchasing Agent and the City Attorney's office and determined to be advantageous to the City; and
 - 3. The procurement process governing the solicitation substantially conforms to the purpose and spirit of this Procurement Code Manual.
- B. Another governmental agency may join in any formal solicitation issued by the City provided:
 - 1. The governmental agency will be a party to the contract which the City and the selected Bidder or Proposer will enter into; and
 - 2. The participation is not found by the Director to be disadvantageous to the City.
- C. The provisions of this joint solicitation rule do not apply to the City's participation in solicitations conducted by, but not limited to, the following governmental entities or groups of governmental entities: The Flagstaff Alliance For The Second Century, the State of Arizona, Mohave Educational Services Cooperative, the Western States Contracting Alliance (WSCA), U.S. Communities and the Strategic Alliance for Volume Expenditures (SAVE). Participation in these procurements will continue to be subject to the terms and conditions specified in their respective contracts.

Section 20.3 *Cooperative Purchasing Contract Awards*

Cooperative purchasing contracts shall be awarded as specified in Article 26, "Award of Contract".

Section 20.4 *Purchases From Existing Contracts*

- A. The Director or Purchasing Agent and the Requesting Division shall determine, collectively, whether using an existing contract from another governmental entity would be in the best interest of the City.
- B. The terms and conditions of the selected governmental entity's solicitation have been reviewed by the Purchasing Agent and the City Attorney's office and determined to be advantageous to the City.

- C. The Director or Purchasing Agent shall make the purchase according to all applicable sections within this Procurement Code Manual.

Section 20.5 *Request for Joint Solicitation*

- A. The Requesting Department shall request, in writing to the Director, participation in a joint solicitation.
 - 1. Written request shall include the volume and estimated value of the purchase, which agency is to conduct the solicitation, and benefit to the City for the joint solicitation; and
 - 2. Upon written approval, by the Director, the City's Requesting Department shall coordinate with the other entity the preparation of specifications.
- B. The procurement activity shall be conducted or coordinated by the Director or Purchasing Agent whether the City is the lead agency, or another governmental entity is the lead agency.

Section 20.6 *Commitment to Purchase or Participate*

The Director or Purchasing Agent, in conjunction with the requesting Division, shall determine if it is advantageous for the City to a purchase pursuant to a contract issued by another governmental entity or to participate in a joint solicitation with another governmental entity.

ARTICLE 21 *BID AND CONTRACT SECURITY*

The submission of security to guarantee faithful bid and contract performance may be required. In determining the amount and type of security required for each contract, the Director shall consider the nature of the performance and the need for future protection for the City. The requirement for security must be included in the solicitation documents.

Section 21.1 *Bid Bond*

The Purchasing Agent shall determine, on a case by case basis, the need for Bid Security and the amount in order to protect the interest of the City, except where specifically required by A.R.S., Title 34, Public Buildings and Improvements.

- A. If required by A.R.S., Title 34, Public Buildings and Improvements, the security shall be in the form of a bid bond issued by a company authorized to issue surety bonds in the State of Arizona or a Cashier's Check made payable to the City of Flagstaff in the amount of ten percent (10%) of the vendor's total bid.
- B. Bid Security shall be returned to all but the two lowest responsible and responsive Bidders or Proposer within ten (10) days after the opening of bids, and the remaining securities returned within three (3) days after the execution of the contract.

Section 21.2 *Performance and Payment Bonds*

The Purchasing Agent shall determine, on a case by case basis, the need for a Performance and/or Payment Bond and the amount in order to protect the interests of the City, except where

specifically required by A.R.S., Title 34, Public Buildings and Improvements.

- A. If required by A.R.S., Title 34, Public Buildings and Improvements, the security shall be in the form of a Performance Bond or Payment Bond issued by a person authorized to issue surety bonds in the State of Arizona, or upon approval of the Director, secured Cashier's Check made payable to the City of Flagstaff in the amount of one hundred percent (100%) of the vendor's total bid. Individual or personal sureties will not be allowed.
- B. The contract number and dates of performance must be clearly indicated in the Bond.
- C. The Director may consider other forms of Performance and Payment guarantee, depending on the project, with the concurrence of the City's Risk Manager and the City Attorney's office.

Section 21.3 Collection of Bid Bonds

The Purchasing Agent shall notify vendors/contractors, in writing, who fail to execute required contracts of their bond forfeiture and shall act to collect the bond amount if a surety was posted.

Section 21.4 Enforcement of Performance Bond

- A. The Purchasing Agent shall notify vendors/contractors, in writing, who fail to provide performance bonds of their default, initiate action to award to second low Bidder or re-bid.
- B. The City's Project Manager or Purchasing Agent shall notify the Director and the City Attorney's office of any performance deficiency in order that the City may initiate a claim against the performance bond in the event the deficiency cannot be resolved with the vendor/ contractor.

ARTICLE 22 MULTI-TERM CONTRACTS

- A. Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time up to five years, as deemed to be in the best interest of the City, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal year period at the time of contracting. A contract may be entered into for a period of time exceeding five years if the Director determines in writing that such a contract would be advantageous to the City and the City Council approves the contract term.
- B. Multi-term contracts shall contain provisions for cancellation by the City in the event funds are not appropriated for the continuance of the contract.

Section 22.1 Determination for Contract Periods Over 5 Years

- A. Written requests for contracts exceeding five (5) years shall justify the advantage to the City and indicate why more frequent competition is not practicable.

Section 22.2 *Establishment of Contract Period*

- A. The Director and requesting department shall determine the appropriate contract period based on market conditions, nature of the material or service, and applicable Contract Administration factors.
- B. Contracts due to expire prior to a formal solicitation for a new term contract award may be extended on a month to month basis, approved by the Director, to maintain organizational service levels until a new formal solicitation can be conducted and a new contract awarded.

Section 22.3 *Authority to Renew*

- A. The Purchasing Director shall have authority to renew a contract if the original contract, approved by City Council, contains a provision that allows for contract renewals upon mutual agreement of both parties and the Purchasing Director has determined in writing that the vendor is not in breach of contract and is performing satisfactorily.

ARTICLE 23 *RIGHT TO INSPECT; AUDIT*

- A. ***Right to inspect.*** The City may, at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the City.
- B. ***Right to Audit.*** The City may at reasonable times and places, audit the books and records of any person who submits cost or pricing data to the extent that the books and records relate to the cost or pricing data, or audit the books and records of any person under any contract to the extent that the books and records relate to the performance of the contract. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three (3) years from the date of final payment under the contract, unless a shorter period is otherwise deemed appropriate by the Director.

ARTICLE 24 *CONTRACT PROVISIONS AND AMENDMENTS*

- A. The Director and the City Attorney's office shall require inclusion in all contracts various provisions regarding appropriate remedies, time of performance, insurance, assurance, price increase limits, options to renew, cost reimbursement and any other terms and conditions, considered to be protective clauses and advantageous to the City.

Section 24.1 *Standard Provisions*

The Director and the City Attorney's office shall prepare and make available standard contract language for contracts subject to this Procurement Code Manual and State of Arizona statutory requirements. Any modification, deletion, or addition to established contract language shall only be made with the prior approval of the Director and City Attorney's office.

Section 24.2 *Effective Dates*

All contracts shall state an effective date, initial term of the contract and any contract renewal

options after the initial contract term expires and, if applicable, performance dates or notice requirements for implementation date.

Section 24.3 *Contract Review Process*

- A. All contracts shall be reviewed by the Purchasing Agent and the City Attorney's office prior to issuance of a solicitation or execution by the Bidder or Proposer for the purpose of including all applicable contract provisions advantageous to the City.
- B. When deemed appropriate, the Director may also require review and approval by other City Staff.

Section 24.4 *Contract Preparation Process*

- A. All contracts shall be referenced by a number assigned by the Procurement Agent.
- B. Contracts shall be awarded according to Section 26.1 "Notice of Intent to Award".
- C. Formal contracts, at minimum, shall be prepared and signed in triplicate. The successful Bidder or Proposer shall sign the contract first, whenever possible. The contract shall then be routed using a "Document Tracking" form to the City Attorney's office for an Attorney's signature and then routed to the City Clerk's office for signature by the City Manager or Mayor, as appropriate, and then signed by the City Clerk. The distribution of signed contracts shall be as follows: one (1) original copy to the Bidder or Proposer, one (1) original copy to be put in the solicitation file within the Purchasing Section and one (1) original copy to the City Clerk's office.

Section 24.5 *Contracts to be Maintained by the City Clerk*

- A. A copy of all original signed contracts, including any associated amendments, shall be forwarded to the City Clerk who shall assign a contract number and maintain all City wide contracts.

Section 24.6 *Contract Amendments*

Contracts may be amended if the Director, end-user and the City Attorney's office determines, in writing, that such modification is advantageous to the City, except contracts originally awarded by the City Council may be amended only with the approval of the City Council, unless the amendment is to provide necessary clarification, provided by the Director and City Attorney's office, to eliminate varying interpretation.

- A. Amendments to contracts shall include signatures of all parties signing the original contract, except where personnel changes have been made to authorized agents of a business entity or the positions of authority within the City. Contract amendments shall be drafted or reviewed by the Purchasing Section and the City Attorney's office prior to signing by the vendor.
- B. Amendments that increase the total expenditure commitment from the informal to formal procurement limit are subject to approval through the formal contract award process as required in Section 26.1 "Notice of Intent to Award".

- C. Contract amendments shall not alter the terms and conditions or scope of work to the extent that, had the contract been bid in the modified state, the resulting low Bidder could have changed, or to the extent that the bid participation could reasonably have been expected to have increased.

Section 24.7 Contract Amendment Preparation

- A. Contract amendments shall be prepared in triplicate, using the standard format provided by the Director, and shall be numbered the same as the original contract and routed in accordance with the same procedures outlined in Section 24.3, "Contract Preparation Process".
- B. Contract amendments shall be signed by all parties signing the original contract.

Section 24.8 Contract Amendment Process

- A. Changes not within the context of the original scope of work may not be accomplished with a change order, but shall require a Contract amendment and City Council approval if the contract amount is at or higher than the formal procurement limit of \$50,000.
- B. Contract amendments shall be reviewed and approved prior to the signing by the vendor in the following sequence:
 - 1. Purchasing
 - 2. City Attorney's Office
 - 3. City Council (If contract amount is at or higher than \$50,000)
- C. A copy of any contract amendment shall be sent to the Purchasing Office for inclusion in the procurement file. When applicable, a memo citing the original Purchase Order number shall be attached to the modification to authorize increase/decrease to the encumbrance by the amount needed to meet the new contractual commitment.

ARTICLE 25 CHANGE ORDERS

A. Change Orders

The City of Flagstaff recognizes the need for City staff to review and approve change orders; task orders that exceed the City Council approved contract amounts; field orders that exceed the authorized limits; and purchase orders for capital projects that exceed the established limit in the City Procurement Code Manual.

The purpose of the Change Order Committee shall have authority to:

- 1. Review and recommend to City Council approvals, modifications, or disapprovals of design and construction change orders exceeding the time and/or dollar contractual amounts approved by the City Council;
- 2. Review and approve individual task orders for on-call consultant services that exceed \$100,000 or 365 calendar days;
- 3. Review and approve field orders that exceed \$100,000 or 60 calendar days;

4. Review and recommend to City Council approval of dollar and time amounts for engineering studies, feasibility studies, reports, contracts, and purchase orders for capital projects that exceed the amount approved by the City Council or that exceed the purchasing limits, as outlined in this Procurement Code Manual; and
5. Review anticipated purchases by the City that require approval as determined by the City Manager, City Attorney, or City Director.

Section 25.1 *Change Order Process*

A change order shall be in written form for any and all changes in the contract's time, conditions or compensation. This written change shall be submitted to the Change Order Committee.

- A. Exception 1 – A Field Order, which is a written and limited change order that is issued under the Contract Allowance provision, does not require Change Order Committee action.

Staff shall have the following field order authorities:

Project Manager - \$10,000 and 10 calendar days.

Section Head - \$25,000 and 30 calendar days.

Division Head - Full contract allowance amount and 60 calendar days.

Field Orders that exceed \$100,000 or 60 calendar days require the Change Order Committee to approve the field order. The Change Order Committee can approve extensions with a “no time limit” cap, if it is a no cost change.

- B. Exception 2 – A Task Order, which is a written and limited order for a scope of work and is issued under the “On-Call” Consultant Contract, does not require Change Order Committee action.

Staff shall have the following Task order authorities:

Project Manager - \$10,000 and 10 calendar days.

Section Head - \$25,000 and 60 calendar days.

Division Head - Contract allowance, up to \$100,000 and 120 calendar days.

Task Orders that exceed \$100,000 or 120 calendar days require the Change Order Committee to approve the task order. The Change Order Committee can approve extensions with a “no time limit” cap, if it is a no cost change.

- C. Contractor may proceed with approved work only upon receipt of a fully executed Change Order and direction of the Purchasing Agent or Project Manager. Due to extenuating circumstances, confirming change orders are allowed upon Director and Project Manager approval.
- D. Change Orders that increase the total expenditure commitment from the informal to formal procurement limit are subject to approval through the formal contract award process as required in Section 26.1 “Notice Of Intent To Award”.

- E. No change order(s) shall exceed 25% of the original contract amount of a professional services contract, 15% of the original contract amount of a construction project, 25% of the original contract amount for all other types of contracts OR \$50,000; whichever is greater without Council approval.
- F. The City's Project Manager shall be responsible for routing of the change order form and obtaining Contractor approval. One (1) original of the completed and approved Change Order(s) shall be included in the contract file maintained by the Purchasing Agent. Copies shall be sent to Purchasing immediately after all applicable reviews and approval.
- G. A copy of any Change Order shall be sent to the Purchasing Office for inclusion in the procurement file. When applicable, a memo citing the original Purchase Order number shall be attached to the Change Order to authorize increase/decrease to the encumbrance by the amount needed to make the new contractual commitment.

Section 25.2 *Change Order Conditions*

- A. Contract Allowance - Contract allowances of 5%, 7.5% or 10% will be added to all design and construction contracts. The allowance is based on the engineer's estimate and will be included in design contracts for recommendation of award by City Council. The allowance will also be included in the bid for construction contracts for recommendation of award by City Council.

<u>Contract amount*</u>	<u>Contract Allowance</u>
over \$1,000,000 in value	allowance of 5%;
from \$999,999.99 to \$250,000	allowance of 7.5%
from \$249,999.99 or lower	allowance of 10%.

- B. Administrative Change Orders - A ten-percent (10%) Administrative Change Order (ACO) amount may be included in all design and construction contracts to be considered by the City Council. The ACO amount is 10% of the total contract less the Contract Allowance amount. The ACO shall not exceed \$500,000.

Administrative Authorization

<u>Contract Amount</u>	<u>Allowance</u>	<u>Administrative CO.</u>	<u>Total</u>	<u>Total Percentage</u>
\$12,000,000	\$600,000	\$500,000	\$1,100,000	9.2%
5,000,000	250,000	500,000	750,000	15.0%
1,000,000	50,000	100,000	150,000	15.0%
500,000	37,500	50,000	87,500	17.5%
100,000	10,000	10,000	20,000	20.0%

Task order – These are authorized scopes of engineering/design work issued to consultants who have approved on-call contracts with the City.

Section 25.3 *Change Order Membership*

The Change Order Committee Members will consist of the following:

1. Public Works Director or designee
 2. Utilities Director or designee
 3. City Attorney or designee
 4. City Engineer or designee
 5. Purchasing Director or Purchasing Agent
- A. The City Manager shall designate a Chair who shall preside over all the meetings, establish agendas, and distribute meeting minutes.
 - B. The Change Order Committee meets as necessary on Thursdays (as necessary) at 7:15 a.m. (during summer work hours) and 8:15 a.m. (during winter work hours) in the Council Conference Room.
 - C. An electronic copy of all change orders must be submitted to the Committee Chairperson by noon on Monday to be scheduled for the following Thursday's meeting.
 - D. Three original change orders, signed by the Project Manager and Department Head shall be given to the Committee Chairperson after the change order has been approved. The Committee Chairperson will obtain all other necessary signatures including the contractor or consultant and distribute copies to the Project Manager.

ARTICLE 26 **AWARD OF CONTRACT**

The City Council shall award all contracts for materials, services and construction that meet or exceed the formal procurement limit as set forth in Article 7(B), "Formal Procurement Limit." The Purchasing Director shall award all contracts less than the formal procurement limit.

Section 26.1 ***Notice of Intent to Award***

- A. Contracts requiring Council award shall be summarized in a staff summary and posted for at least five days on the City's website prior to award.
 1. After Council award, Purchasing shall issue a Notice of Award, along with any associated supplemental Agreement. The Notice of Award shall require that all applicable documents (e.g., insurance certificates, performance and payment bonds and signed Agreement) be submitted to the City within ten (10) days.
 2. The Purchasing Agent shall issue a Notice to Proceed for construction and service contracts upon receipt of the, insurance certificates, signed agreement and any applicable bid, performance and payment bonds.

ARTICLE 27 **SPECIFICATION GUIDELINES**

The Director shall establish guidelines governing the review and approval of specifications for materials, services and construction required by the City as secured through the formal or informal procurement process.

Section 27.1 ***Content of Specifications***

The Director shall establish guidelines governing the content of specifications used in City

procurements to ensure adequate competition.

Section 27.2 *Samples/Demonstrations*

- A. Samples of materials, when required during the solicitation process, shall be submitted in accordance with the instructions in the solicitation.
- B. Samples shall be furnished, free of charge, to the City submitted with the solicitation and must be accompanied by descriptive memorandum.
- C. Bid samples may be held for comparison with deliveries pursuant to a contract award.
- D. Samples will be returned according to the time frame included in the solicitation at the Bidder's risk and subject to his expense. The City will not reimburse the vendor for any expendable/consumable items that were consumed during the bid evaluation process.

Section 27.3 *Specification Approval*

The Purchasing Agent retains the authority to approve or disapprove all specifications to be used in a solicitation.

Section 27.4 *Specifications Guidelines*

- A. A specification may provide alternate descriptions of materials, services, or construction items where two or more design, functional, or performance criteria will satisfactorily meet the City's requirements.
- B. To the extent practicable, a specification shall not include any solicitation term or condition, or any contract term or condition.
- C. To the extent practicable, if a specification for a common or general use item has been developed, or a qualified products list has been developed for a particular material, service, or construction item, it shall be used.
- D. To the extent practicable, specifications shall emphasize functional or performance criteria. When using performance specifications all brands bid shall be evaluated after receipt of bids to determine those meeting specifications.
- E. To the extent practicable, specifications shall be written as minimum standards.
- F. Unless otherwise specifically stated in the solicitation, any equipment or materials specified shall be standard, new, and state-of-the-art in quality and design, and shall comply fully with all applicable federal and Arizona laws and regulations.

Section 27.5 *Maximum Practicable Competition; Brand Name or Approved Alternate; Qualified Products List*

- A. ***Maximum Practicable Competition.*** All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive.

1. To the extent practicable and unless otherwise permitted by this section, all specifications shall describe the City's requirements in a manner that does not unnecessarily exclude a specific material, service or construction item.
 2. Proprietary or brand name specifications shall not be used unless the Director determines in writing that such specifications are required and demonstrate technological justification and that it is not practicable or advantageous to use a less restrictive specification.
 3. To the extent practicable, the City shall use accepted commercial specifications and shall procure standard commercial materials and avoid proprietary specifications whenever practicable.
- B. ***Brand name or approved alternate.*** A brand name or approved alternate specification shall only be used when the Director determines in writing that use of a brand name or approved alternate specification is advantageous to the City and the solicitation provides for the submission of equivalent products. The solicitation document shall state that "the City reserves the right to determine what is considered an equivalent product."
1. A brand name or approved alternate specification shall designate as many different brands as are practicable or approved alternate specifications.
 2. A brand name or approved alternate specification shall include a description of the particular design, functional, or performance characteristics that are required, unless the Director determines in writing that the essential characteristics of the brand names designated in the specifications are commonly known.
 3. A solicitation that uses a brand name or approved alternate specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.
- C. ***Qualified products list.*** A qualified products list may be prepared and utilized, if the Purchasing Agent determines in writing that testing or examinations of the material or construction items prior to the issuance of the solicitation is desirable or necessary in order to best satisfy the City's requirements. As many potential suppliers as practicable shall be solicited to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.

Section 27.6 *Inspections and Tests*

- A. The inspection or testing of any material to verify specification adherence or qualify for a products list, shall be performed in a manner established on a case by case basis.
- B. If testing is required, the requirements shall be included in the solicitation.

- C. The City reserves the right to require testing or inspection by a recognized testing laboratory or consultant selected by the City.
- D. The cost of testing or inspection shall be borne by the Bidder submitting a bid for the products the City is requesting.

Section 27.7 Proprietary Specifications

Proprietary specifications are not justified by past success in performance, the inconvenience of writing specifications, or the desire to maintain a single brand that is not supported by technological justification.

Section 27.8 Product Testing Guidelines

City Staff may test materials or services in a manner agreed upon with the material or service supplier provided the following guidelines are applied:

- A. City Staff is not required to test solely for supplier's benefit;
- B. City Staff may not accept materials for testing unless those materials have been purchased through purchasing procedures provided by this Procurement Code Manual;
- C. Any testing shall be at the direction and convenience of City staff;
- D. The City's name may not be used by any person in connection with any advertising sale, or promotion of any product tested by the City staff; and
- E. Any materials testing shall be pursuant to industry standard testing of materials and a written testing agreement shall be in place between the City and the supplier. The Director must be notified of all testing agreements prior to commencement of testing.

Section 27.9 Specifications Prepared by Architects; Engineers; Consultants

All specifications prepared for City contracts shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs and shall not be unduly restrictive. In the event that suitable specifications cannot be developed by City staff, the Director may retain a specification consultant for the purpose of assisting with the writing of the specifications. The consultant shall be selected pursuant to either Section 7.1, "Informal Procurement Process", or Article 11, "Formal Procurement Process—Request for Proposals".

Section 27.10 Preparation of Specifications by Persons Other than City Personnel

- A. The City may contract for the preparation of specifications with persons other than City personnel including, but not limited to, consultants, architects, engineers, designers, manufacturers, and others.
- B. The requirements of Article 27, "Specifications Guidelines" shall apply to all specifications prepared by vendors, including, but not limited to, those prepared by consultants, architects, engineers, designers, and other draftsmen of specifications for public contracts. Contracts for the preparation of specifications by other than City personnel shall require the specification writer to adhere to such requirements.

- C. The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which the specification was prepared nor is the preparer eligible to supply any product to a Bidder or Proposer on the solicitation for which the specification was prepared; provided however, the Director may make an exception to this provision when justified by the business practices of the applicable industry or it is otherwise in the best interest of the City. The Purchasing Agent shall place in the solicitation file, a written determination, including all relevant facts in any case where an exception is made.
- D. The terms and conditions of contracts for preparation of specifications shall reference the rule in Subsection C above.

Section 27.11 Recycled and energy consumptive materials; life cycle costing; environmental procurement.

Guidelines shall be established governing the review and approval of specifications for the procurement of selected materials based on considerations of recycling, energy conservation, life cycle costing and other environmental considerations.

Section 27.12 Environmental/Sustainable Procurement Policy

- A. A Sustainable Purchasing Policy, hereinafter referred to as Policy, has been established to ensure the procurement of products and services that reduce the consumption of resources and the production of waste, minimize adverse health effects and reduce costs to the City.

The principles of the Policy are rooted in resource efficiency, life cycle perspective, and pollution prevention. Resource efficiency incorporates preference to reusable content and recycled materials over virgin materials, as well energy and water conservation. Life cycle perspective considers the environmental impact of a product or service over its lifetime (raw material extraction, manufacturing, packaging, transport, energy consumption, maintenance and disposal). Pollution prevention incorporates processes and practices that prevent the creation of pollution and wastes, rather than managing these after they have been created.

The Policy requires the City to:

1. Strongly promote the purchase and use of materials, products and services that are fiscally responsible, reduce resource consumption and waste, promote local business opportunities, and promote human health and well-being.
2. Minimize the consumption of non-replaceable natural resources by reviewing current and proposed future usage and evaluating the pros and cons of alternatives.
3. Maximize the reuse and recycling of materials. Require a minimum 50% post-consumer waste recycled content for paper. Require recyclability of products in compliance with the City's recycling program, reusability, and performance consistent with City standards to the extent practicable.

4. Use and require contractors and consultants to use products manufactured with maximum practical amount of recovered material, especially post-consumer material.
 5. Stimulate demand for products and services supporting the Policy by letting manufacturers and suppliers know the performance the City expects.
- B. The Sustainability Program staff shall provide support to Purchasing and Division Staff in their efforts to meet the requirements of the Policy.
 - C. Procedures and Guidelines may be established as necessary to ensure the continuation of a strong Sustainable Procurement Program.

ARTICLE 28 *DISPOSITION OF SURPLUS PERSONAL PROPERTY*

A. Surplus Personal Property Disposition

The City Council or designee, may sell, trade, transfer between offices, Divisions or otherwise dispose of surplus personal property pursuant to Article 8, "Contracts", Sections 4, "Transfer and Sale of property Within City Government", and Section 10, "Sale of City Property", number 1 and 3 of the Flagstaff City Charter. Each sale shall be made to the highest responsible Bidder after published notice of the sale in accordance with the following schedule:

1. Informal Process: Personal property having a value of \$500.00 or less may be sold without published notice, but written advice of such sale or disposal shall be given to the City Council.
2. Formal Process: Personal property valued in excess of \$500.00 shall be sold after published notice of the sale for at least once, but not less than five (5) days prior to the published notice. .
 - 2.1 All personal property disposition under a formal process, shall be sold by public on-site auction, public on-line bidding process or through a formal competitive sealed bid sale process.
 - 2.2 Any surplus property shall be sold through a formal competitive sealed bid sale, when it is more advantageous to the City than holding it for public on-site auction or public on-line bidding.
 - 2.3 All formal sealed bid sales shall be conducted in a manner substantially similar to the procedures established in Article 10, "Formal Procurement Process—Invitation For Bids" and shall include a description of the property for sale and all terms and conditions applicable to the sale.
 - 2.4 Public notice of any sealed bid sale shall be published at least once in the official newspaper, not less than five (5) days prior to the opening of the bids.

- 2.5 Any surplus property sold under this formal competitive sealed bid sale process, shall be sold to the person making the highest responsive, responsible, offer most advantageous to the City.

Property seized during the course of a police investigation shall not be subject to this Procurement Code Manual until such time as any State and Federal laws have been complied with and the property is declared surplus by the Police Department.

B. *Declaration Regarding Surplus Property*

The disposition of all City owned surplus property shall be determined and handled by the City's Central Warehouse. Divisions shall be responsible for property in their possession and as necessary, may declare such property as surplus and shall complete a surplus property form with all required signatures. This form is available on the City of Flagstaff CityNet and shall accompany all items taken to the Warehouse as surplus property and need to reflect whether the item(s) are operational or not, so the information can be given to Bidders.

Section 28.1 *Organizational Need*

Prior to pursuing any method for disposal of surplus property, the Division or end-user shall first determine that it is of no use to any other Division. Divisions shall review inventories of personal property to determine the existence of excess or obsolete items that could be declared surplus property and shall notify the Central Warehouse Manager.

Section 28.2 *Surplus Property Listing*

A listing of surplus property shall be maintained by each Division and such property shall be transferred between Divisions as needed prior to any other disposition method handled by the Central Warehouse. The Central Warehouse shall maintain a surplus property list of all items that are located at the Central Warehouse and scheduled to be sold either through a public on-site auction or public on-line bid sale.

Section 28.3 *Surplus Property Trade-In Allowance*

Prior to trading for credit against a new purchase or service, the Purchasing Agent shall determine the fair market value and document the disposal in the surplus item file with reference to the Purchase Order for the new materials or services.

Section 28.4 *Proceeds From Sales*

All proceeds from the sale of surplus property shall be deposited in an established revenue account of the City determined by the Finance Director.

Section 28.5 *Donation of Surplus Property*

Surplus personal property may be donated to organizations in exchange for services that would benefit the local Flagstaff community, where such value would exceed the revenues generated from a sale through an auction or sealed bid, as determined in writing by the Director. For donations valued in excess of \$50.00, the receiving organization shall execute a receipt or

contract according to how the donation will be used. Any donation, exceeding \$500.00 in value, shall be approved by the City Council.

ARTICLE 29 PROTESTS

An actual or prospective Bidder or Proposer, who is aggrieved in connection with the solicitation or award of a contract, may protest any aspect of a solicitation prior to award of a contract.

Section 29.1 Time for Filing Protests

- A. Protests based upon alleged improprieties in a solicitation that are apparent before the solicitation due date shall be filed not less than five (5) working days before the solicitation due date. Contracts shall be final and no protest pursuant to this section may be filed after award.
- B. In cases other than alleged improprieties in a solicitation, protests shall be filed within ten (10) days after the aggrieved person knows or should have known the facts and circumstances upon which the protest is based. However, in no event, shall the protest be filed later than ten (10) days after issuance of notification of award.

Section 29.2 Filing of a Protest

- A. A protest shall be submitted, in writing, to the Director and shall include the following information:
 - 1. The name, address, telephone number and e-mail address of the Protester;
 - 2. The signature of the Protester or its representative;
 - 3. Identification of the solicitation and contract number;
 - 4. A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and
 - 5. The form of relief requested.
- B. The Director, without waiving the City's right to dismiss the protest for lack of timeliness, may consider any protest that is not filed timely.
- C. The Director shall give notice of the protest to the successful vendor if award has been made, or if no award has been made, to all actual or prospective Bidders or Proposers.
- D. The Director shall review the formal protest and issue a written ruling within fourteen (14) days of receiving the formal protest in accordance with Section 29.1, "Time for Filing Protests", and Section 29.2, "Filing of a Protest". The Director may also give notice of the ruling to any other persons involved in the solicitation whose interests may be affected by the ruling requested from the Director.

Section 29.3 Stay of Procurements During the Protest

In the event of a timely protest under Section 29.1, "Time for Filing Protests", the City may

proceed further with the solicitation or with the award of the contract unless the Director makes a written determination that there is a reasonable probability that the protest will be sustained or that the stay of procurement is not contrary to the substantial interests of the City.

Section 29.4 *Confidential Information*

- A. Material submitted by a Protester shall not be withheld from an interested party except to the extent that the withholding of information is permitted or required by law or as determined pursuant to Procurement Code Manual provisions for confidential material.
- B. If the Protester believes the protest contains material that should be withheld, a statement advising the Director of this fact shall accompany the protest submission.

Section 29.5 *Remedies*

- A. If the Director sustains the protest in whole or part and determines that a solicitation or proposed contract award does not comply with the procurement statutes and regulations, the Director shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the Director shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement process, the good faith of the parties, costs to the City, the urgency of the procurement and the effect of the relief.
- C. An appropriate remedy may include one or more of the following:
 - 1. Reissue the solicitation and award a contract consistent with this Procurement Code Manual; or
 - 2. Such other relief as is determined necessary to ensure compliance with the City Charter, City ordinances and/or this procurement Code Manual.

ARTICLE 30 *SUSPENSION, DEBARMENT*

- A. The Director may suspend or debar any person from consideration for award of a contract pursuant to this Procurement Code Manual. Suspension of any person shall not exceed six (6) months. A debarment shall not exceed three (3) years.
- B. The causes for suspension or debarment may include, but are not limited to, the following:
 - 1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 - 2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the Federal Government, this State or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of

records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a City contractor.

3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
 4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:
 - a. Knowingly failing without good cause to perform in accordance with the specifications or within the time limit provided in the contract.
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of a contract, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
 5. Any other cause deemed to affect responsibility as a City contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause listed in the established rules.
- C. Before imposing a suspension or debarment, the Director shall give the affected party written notice of the grounds for suspension or debarment and shall afford such person an opportunity for hearing.

Section 30.1 *Resolution of Contract Controversies - Materials, Services and Construction Contracts*

- A. The Purchasing Agent and the end-user shall have the authority and responsibility to enforce all performance and terms under all contracts where they are named as Administrator.
- B. If any issue regarding performance under the contract cannot be resolved by mutual agreement between the Purchasing Agent/end-user and the Vendor/Contractor shall, through the City Attorney's Office, pursue resolution as provided in the terms of the original contract or under applicable law. The Purchasing Agent shall prepare a written decision informing the vendor of the required performance.
 1. Final written decision shall include:
 - a. A description of the controversy;
 - b. A reference to the pertinent contract provision;
 - c. A statement of the factual areas of agreement or disagreement;
 - d. A statement of the decision, with supporting rationale; and

e. Instructions for appeal

After preparation of the decision, the Contract Administrator shall send the decision to the Director who shall deliver the decision to the Vendor/Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

- C. If the Vendor/Contractor fails to comply with all terms of the notice of final decision, the Vendor/Contractor may be declared in default and the contract may be terminated based upon the review and procurement/legal opinion from the Director and City Attorney's Office.

The Vendor/Contractor may be suspended or debarred under the provision of Article 31, "Suspension, Debarment". The Director may render a decision for the suspension and debarment of the Vendor/Contractor if violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:

- a. Knowingly failing without good cause to perform in accordance with the specifications/scope of work or within the time limit provided in the contract.
- b. Failure to perform or unsatisfactory performance in accordance with the terms of a contract, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the Vendor/Contractor shall not be considered to be a basis for debarment.

ARTICLE 31 ARIZONA CERTIFIED NONPROFIT BUSINESSES THAT SERVE OR EMPLOY INDIVIDUALS WITH DISABILITIES

- A. The City may purchase or contract for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements, as determined by the Director and the requesting department.
- B. The City may set aside, at minimum, a percentage of its purchases or contracts for any products, materials and services directly from Arizona certified nonprofit agencies that serve or employ individuals with disabilities without competitive bidding if the delivery and quality of the products, materials or services meet the City's reasonable requirements, as determined by the Director and the requesting department.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

~~Reconsideration of Resolution No. 2015-16: Regarding a Veteran's Facility on McMillan Mesa~~
MOVED TO ITEM 15-B UNDER REGULAR AGENDA*

RECOMMENDED ACTION:

- 1) Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2015-16 would be required to be made (by a member voting with the majority).
- 2) Read Resolution No. 2015-16 by title only
- 3) City Clerk reads Resolution No. 2015-16 by title only (if approved above)
- 4) Adopt Resolution No. 2015-16

Executive Summary:

Attached is a request from Councilmember Oravits to reconsider Resolution No. 2015-16, the donation of land to the Department of Veterans Services. In accordance with Rule 10.9 of the adopted City Council Rules of Procedure, *"after the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken."* Since Councilmember Oravits voted with the majority, he is permitted to request a reconsideration.

Financial Impact:

None

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

The City Council approved an amended Resolution No. 2015-16 at their meeting of May 19, 2015; however, Councilmember Oravits has subsequently submitted a written request for reconsideration.

Options and Alternatives:

- 1) Support reconsideration of Resolution No. 2015-16
- 2) Not support reconsideration of Resolution No. 2015-16

Attachments: Request for Reconsideration
 Res. 2015-16 Amended & Adopted



City of Flagstaff



May 26, 2015

Liz Burke, City Clerk

Pursuant to the City Council rules of procedure, rule 10.09, I hereby request a reconsideration of the motion to amend the proposed resolution on May 19, 2015, regarding the land donation to the department of Veterans Services, and the resolution that was approved on May 19, 2015.

Thank you,

Jeff Oravits

RESOLUTION NO. 2015-16

RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, MEMORIALIZING DIRECTION FOR STAFF TO BRING AN ORDINANCE FOR CONSIDERATION PROVIDING APPROXIMATELY EIGHT ACRES OF LAND ON MCMILLAN MESA TO THE ARIZONA DEPARTMENT OF VETERANS' SERVICES ("AZDVS") FOR USE AS A SKILLED NURSING FACILITY TO SERVE VETERANS

RECITALS:

WHEREAS, the City Council is authorized under the Flagstaff City Charter to make decisions regarding the disposition of real property (land) owned by the City of Flagstaff; and

WHEREAS, the ability of City staff and the community to know and understand the City Council's desires regarding certain parcels of unrestricted land is beneficial to the future disposition of the parcels; and

WHEREAS, on March 10, 2015, City staff presented to City Council a potential opportunity to provide a City-owned portion of McMillan Mesa to AZDVS for a veterans' facility; and

WHEREAS, staff has presented this proposed action to the Open Spaces Commission and the Parks and Recreation Commission and held two public open houses; and

WHEREAS, to complete the provision of land to AZDVS for a veterans' facility, an ordinance and specific legal documents must be approved by the City Council.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA does hereby memorialize its direction to provide approximately eight (8) acres of City land on McMillan Mesa to AZDVS through an appropriate mechanism as follows:

Section 1. The parcel identified as Coconino County Assessor Parcel Number (APN) 109-02-001N, will have an ordinance brought forward for City Council consideration and possible action to provide approximately eight (8) specific acres of said parcel to the AZDVS for use in developing and operating a minimum 60-bed skilled nursing facility for veterans.

Section 2 Said ordinance will have a legal description for the specific eight (8) acres and clearly articulated provisions related to the recapture of the entire eight (8) acres of land by the City of Flagstaff within a prescribed period of time.

Section 3 Said ordinance will prohibit AZDVS from selling, transferring or leasing the land or operation.

Section 4. The City of Flagstaff will require AZDVS to comply with the City of Flagstaff's Outdoor Lighting Standards.

Section 5. The City of Flagstaff will require AZDVS to limit the height of the veterans' facility buildings to two stories.

Section 6. The City of Flagstaff will require AZDVS to work with the Flagstaff community to identify an appropriate design for the facility that fits within the City's existing landscape.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of May, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Jeff Bauman, Traffic Engineer
Co-Submitter: Stacey Brechler-Knaggs, Grants Manager
Date: 05/22/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Approval of Grant: Arizona Department of Transportation Intergovernmental Agreement for light-emitting diode (LED) Street Lighting Procurement for Research. ***(IGA with ADOT re LED lighting)***

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement (IGA/JPA 15-0005287-1) between the City of Flagstaff and the Arizona Department of Transportation (ADOT) for Surface Transportation Program (STP) funds in the amount of \$199,000.00, City matching funds in the amount of \$12,029.00 and City payment of ADOT Project Management & Design Review (PMDR) in the amount of \$10,000.00 for procurement of LED street lights associated with the Flagstaff Metropolitan Planning Organization's (FMPO) - Street Lighting for Enhancing Dark Skies (SLEDs) research project.

Executive Summary:

Approval of the IGA will authorize ADOT STP funds in the amount of \$199,000.00 (94.3%), City matching funds in the amount of \$12,029.00 (5.7%) and City payment of ADOT PMDR in the amount of \$10,000.00 for procurement of LED street lights associated with the FMPO - Street Lighting for Enhancing Dark Skies (SLEDs) research project. The SLEDs research project is a cooperative effort developed by the FMPO, City of Flagstaff and the Dark Skies Community to evaluate the impact of different street lighting applications and technologies on the night sky. The City is seeking research that effectively and appropriately mitigates the impacts of street lighting options on the community's dark sky natural resource and is intended to provide a clear path forward and timeline for Low Pressure Sodium (LPS) to LED transition. The City is responsible for costs above the \$199,000.00 Federal-aid funding level.

Financial Impact:

This Council action will approve the funding for the procurement of LED street lights associated with the FMPO - SLEDs research project in the amount of \$199,000.00 (94.3% Federal-Aid Funds, STP, FMPO TIP Project # F31401-2), City matching funds in the amount of \$12,029.00 (5.7% Local match, Transportation Tax, Reserve for Transportation Improvements) and City payment of ADOT PMDR in the amount of \$10,000.00 (Transportation Tax, Reserve for Transportation Improvements). The \$22,029.00 total City contribution is unbudgeted with funding coming from FY 2015, Transportation Tax, Reserve for Transportation Improvements.

Connection to Council Goal and/or Regional Plan:**COUNCIL GOALS:**

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

REGIONAL PLAN:

IV. Environmental Planning & Conservation

Goal E&C.5 Preserve dark skies as an unspoiled natural resource, basis for an important economic sector, and core element of community character.

VII. Energy:

Goal E.1. Increase Energy Efficiency

X. Transportation:

Goal T.2. Improve transportation safety and efficiency for all modes

Goal T.3. Provide transportation infrastructure that is conducive to conservation, preservation, and development goals to avoid, minimize, or mitigate impacts on the natural and built environment.

Has There Been Previous Council Decision on This:

No specific Council action has been issued with respect to this Grant.

Options and Alternatives:

1) Approve the IGA funding to utilize Fiscal Year 2015 STP funding and City of Flagstaff funding to procure LED street lights in association with the FMPO SLEDs research project.

2) Reject the IGA, which would forfeit the Fiscal Year 2015 STP allocation of \$199,000.00 and significantly hamper the viability of the FMPO SLEDs research project.

Background/History:

The FMPO - SLEDs research project is a cooperative effort developed by the FMPO, City of Flagstaff and the Dark Skies Community as an outcome of the discussions that occurred at the 'Blinded by the Light' Dark Skies Conference held at the High Country Conference Center in August 2014. The SLEDs research project will evaluate the impact of different street lighting applications and technologies on the community's dark sky natural resource and is intended to provide a clear path forward for LPS to LED transition. The SLEDs project is focused on street lighting applications and technologies but, is expected to provide guidance and technical support for the Zoning Code's similar evolution from LPS to LED based technologies for on-site lighting applications.

Key Considerations:

STP funding is provided by the Federal Highways Administration, through the State of Arizona. This funding is allocated on an annual basis to the FMPO and then awarded to the member agencies. The August 2014 'Blinded by the Light' Conference, the SLEDs research project and this FY 2015 allocation for LED street lights have all utilized STP funding.

The City has been in discussions with the local Dark Skies community, primarily Lowell Observatory and the U.S. Naval Observatory for approximately 24 months regarding the evolution of the City's 3600 existing street lights from High Pressure Sodium (HPS) and LPS to some variation of an LED source. LED technologies come in several forms from full spectrum 'white', to Narrow Band Amber. Full spectrum white LEDs are the most energy efficient but, produce the highest amount of sky glow, while

Narrow Band Amber are the least efficient and produce the smallest amount of sky glow. Energy efficiency and sky glow are two of the multitude of factors that shape this discussion. Reliability, community acceptance, light trespass, compatibility with existing infrastructure, public safety, and marketplace availability are several of the other key factors that will be reviewed as part of the SLEDS project.

Community Benefits and Considerations:

The City of Flagstaff was the first to be recognized by the International Dark Sky Association as an *International Dark Sky City*. Flagstaff earned this distinction, in part, by the establishment in 1989 of a lighting code and engineering standards specifying the use of low LPS light fixtures for all roadway and parking lot lighting. Today, LPS lights are increasingly difficult to acquire as low demand has prompted many manufacturers to stop production. This SLEDS project is an opportunity for Flagstaff to demonstrate to other municipalities an innovative lighting solution for dark sky preservation with LED technology that achieves municipal objectives for safety and cost effectiveness and astronomical objectives for maintaining dark skies.

Community Involvement:

Collaborate - this project has been in the FMPO's Annual Work Program and Transportation Improvement Program which is annually reviewed and approved by the FMPO Executive Board and will be coordinated with the citizen led Dark Skies Lighting Code Working Group.

Attachments: IGA

ADOT File No.: IGA/JPA 15-0005287-I
AG Contract No.: P0012015001283
Project: LED Street lighting
Procurement for Research
Section: Various Locations Citywide
Federal-aid No.: FLA-0(220)T
ADOT Project No.: SZ184 01D
TIP/STIP No.: FMPO F31401-2
**CFDA No.: 20.205 - Highway Planning
and Construction**
Budget Source Item No.: n/a

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date _____, 2015, pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "CITY"). The State and the City are collectively referred to as "Parties."

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The City, Flagstaff Metropolitan Planning Organization (FMPO) and Lowell Observatory have partnered to request Federal Aid funding for the City of Flagstaff's FY 2015 Surface Transportation Program – Street Lighting for Enhancing Dark Skies project (SLEDs). This federally-funded research project, ADOT Project Number PFM1401P, will be administered by the City and result in defining the procurement needs for ADOT Project No: SZ184. The State, the Federal Highway Administration (FHWA) and the City have identified systematic improvements within the City as eligible for this funding.

4. The purpose of this Agreement between the City and the State is to allow the State to acquire federal funds for the purchase of several different types of LED street lighting and fixture replacements to enhance Dark Skies on City streets (the "Project"). This procurement is in support of a research project in which the resulting research will determine the type of light bulbs the City will acquire and test with the ultimate lighting specifications to be developed through said research. The City will manage the procurement in multiple phases to serve the research process and reduce the number of lights that might be rejected. The City, through the State's Procurement Process and ADOT Procurement contract(s) will utilize an authorized supplier to provide the equipment and services as outlined in the contract and approved plans to complete this project with the aid and consent of the State and the FHWA. The City will install the Project at its own cost.

5. The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the City and the authorization of such federal funds for the Project pursuant to federal law and regulations. The State shall be the designated agent for the City for the Project, if the Project is approved by FHWA and funds for the Project are available. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project specifications and terms and conditions.

6. The Parties shall perform their responsibilities consistent with this Agreement; any change or modification to the Project will only occur with the mutual written consent of both Parties.

7. The federal funds will be used for the procurement of equipment for this Project. The estimated Project costs are as follows:

SZ184 01D (ADOT Project Management & Design Review (PMDR) Cost, non-federal-aid):

PMDR costs @ 100% *	\$ 10,000.00
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SZ184 01D:

Federal-aid funds @ 94.3% (capped)	\$ 199,000.00
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City's match @ 5.7%	<u>\$ 12,029.00</u>
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Subtotal – Project Costs	\$ 211,029.00
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Total Estimated Project Costs	\$ 221,029.00
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Total Estimated City Funds*	\$ 22,029.00
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Total Federal Funds	\$ 199,000.00
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The Parties acknowledge that the final Project costs may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all eventual, actual costs exceeding the initial estimate. If the final amount is less than the initial estimate, the difference between the final amount and the initial estimate will be de-obligated or otherwise released from the Project. The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all actual costs exceeding the final amount.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Execute this Agreement and if the Project is approved by FHWA and funds for the Project are available, be the City's designated agent for the Project.

b. Execute this Agreement, and prior to performing or authorizing **any** work, invoice the City for the PMDR costs, estimated at \$10,000.00. Invoice the City in increments of \$5,000.00 to cover any overages of the PMDR costs. Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual PMDR and design costs.

c. Submit all required documentation pertaining to the Project to FHWA with the recommendation that the maximum federal funds programmed for this Project be approved for procurement of several different types of LED street lighting and fixture replacements to enhance Dark Skies on City streets. Should costs exceed the maximum federal funds available it is understood and agreed that the City will be responsible for any overage.

d. Execute this Agreement and with FHWA authorization, coordinate with the City regarding the specifics of the equipment to be ordered to best ensure the requirements of the Project are met. Enter

into a contract(s) with the authorized supplier(s) to whom the award is made for the purpose of the Project.

e. Be granted, without cost requirements, the right to enter City right-of-way as required to conduct any and all pre-construction and construction related activities for said Project, including without limitation, temporary construction easements or temporary rights of entry on to and over said rights-of-way of the City.

f. Instruct the vendor to bill the City and deliver equipment directly to the City for final acceptance. Within thirty (30) days of receipt and approval of an invoice for equipment purchased under this Agreement, reimburse the City for an amount not to exceed eighty percent (80%) of the total capped federal funds programmed and approved for the Project. The remaining twenty percent (20%) will be reimbursed after completion of the final inspection and within thirty (30) days of receipt and approval of the final invoice from the City.

g. Reserve the right to de-obligate federal funds should the Project go six (6) months or more without being charged to.

h. Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

i. Verify installation of equipment was performed and completed in compliance with FHWA requirements, upon notification of installation of equipment by the City.

2. The City will:

a. Designate the State as authorized agent for the City for the Project.

b. Within thirty (30) days of receipt of an invoice from the State, pay the initial PMDR costs, estimated at \$10,000.00. If, additional funding to cover PMDR costs is required, pay the invoiced amount to the State within thirty (30) days of receipt. Be responsible for any difference between the estimated and actual PMDR and design costs of the Project.

c. Be responsible for the cost of installation and any costs exceeding the maximum federal funds available for the Project, provided the City is unable to reduce the scope of the Project to meet available federal funds. Should costs be deemed ineligible or exceed the maximum federal funds available, it is understood and agreed that the City is responsible for these costs, payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State.

d. Coordinate with the State during the procurement process of the Project.

e. Purchase and install the equipment acquired under this Agreement and maintain all Project improvements provided for the life of the equipment.

f. Install all equipment purchased within one (1) year of receipt of equipment; keep complete records of all equipment installed per this Project in a manner consistent with State and FHWA requirements.

g. Within thirty (30) days of payment to the vendor, invoice the State for reimbursement of up to eighty percent (80%) of the total capped federal funds programmed and approved for the Project, for eligible costs incurred by the City, for the purchase of equipment under this Agreement. The remaining twenty percent (20%) will be reimbursed after completion of the final inspection. Provide back-up documentation with each invoice. Be responsible for all costs incurred in performing and accomplishing the work described in this Agreement not covered by federal funding.

h. Notify the State when all equipment has been installed and is ready for inspection. Within thirty (30) days of completion of the final inspection, invoice the State for the remaining twenty percent (20%) of federal funds programmed and approved for the Project.

i. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of scope of the work requested by the City. Such changes require the prior approval of the State and FHWA. Be responsible for any contractor claims for additional compensation caused by Project delays attributable to the City. Payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State.

j. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and also certify that all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT ROW Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.06 Monitoring Process and 9.07 Certification of Compliance. Coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable.

k. Not permit or allow any encroachments upon or private use of the right-of-way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

l. Grant the State, its agents and/or contractors, without cost, the right to enter City rights-of-way, as required, to conduct any and all construction and preconstruction related activities, including without limitation, temporary construction easements or temporary rights of entry to accomplish among other things, soil and foundation investigations.

m. Pursuant to 23 USC 102(b), repay all federal funds reimbursements for preliminary engineering costs on the Project if it does not advance to right-of-way acquisition or construction within ten (10) years after federal funds were first made available.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project and related deposits or reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be cancelled at any time prior to the award of the procurement, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the City will be responsible for all costs incurred by the State up to the time of termination. It is further understood and agreed that should the City terminate this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of the City and the fulfillment of any other responsibilities of the State as specifically set forth herein; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless, defend and indemnify from loss the State, any of its departments,

agencies, officers or employees from any and all liability, costs and/or damage incurred by any of the above arising or resulting from this Agreement; and from any other liability, damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non-performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The cost of design, construction and construction engineering work under this Agreement is to be covered by the federal funds set aside for this Project, up to the maximum available. The City acknowledges that the actual costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by the federal government as eligible for federal funds. Therefore, the City agrees to pay the difference between actual costs and the federal funds received, provided the City is unable to reduce the scope of the Project to meet available federal funds.

4. Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this Agreement.

5. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.

6. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

7. The City acknowledges compliance with federal laws and regulations and may be subject to the Office of Management and Budget (OMB), Single Audit, Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations). Entities that expend \$500,000.00 or more (prior to 12/26/14) and \$750,000.00 or more (on or after 12/26/14) of federal assistance (federal funds, federal grants, or federal awards) are required to comply by having an independent audit. Either an electronic or hardcopy of the Single Audit is to be sent to Arizona Department of Transportation Financial Management Services within the required deadline of nine (9) months of the sub recipient fiscal year end.

ADOT – FMS
Attn: Cost Accounting Administrator
206 S 17th Ave. Mail Drop 204B
Phoenix, AZ 85007
SingleAudit@azdot.gov

8. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

9. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

10. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.

11. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order

Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

12. Non-Availability of Funds: Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

13. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

14. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

15. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

16. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

For Agreement Administration:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax
JPABranch@azdot.gov

City of Flagstaff

Attn: Stacey Brechler-Knaggs
211 W. Aspen
Flagstaff, Arizona 86001
928-213-2227
sknaggs@flagstaffaz.gov

For Program Administration:

Arizona Department of Transportation
Statewide Project Management
205 S. 17th Avenue
Phoenix, Arizona 85007
Phone (602) 712-6961
amanzor@azdot.gov

City of Flagstaff

Attn: Stacey Brechler-Knaggs
211 W. Aspen
Flagstaff, Arizona 86001
928-213-2227
sknaggs@flagstaffaz.gov

For Financial Administration:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax
JPABranch!@azdot.gov

17. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each Party's legal counsel that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF FLAGSTAFF

STATE OF ARIZONA

Department of Transportation

By _____
JERRY NABOURS
Mayor

By _____
STEVE BOSCHEN, P.E.
ITD Division Director

ATTEST:

By _____
ELIZABETH A. BURKE
City Clerk

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF FLAGSTAFF, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2015.

City Attorney

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Brian Grube, Recreation Services Director
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution No. 2015-22: A resolution of the City Council of the City of Flagstaff renaming the Flagstaff Recreation Center located at 2403 North Izabel Street to the "Hal Jensen Recreation Center" (*Renaming of Flagstaff Recreation Center*).

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-22 by title only
- 2) City Clerk reads Resolution No. 2015-22 by title only (if approved above)
- 3) Adopt Resolution No. 2015-22

Executive Summary:

Resolution No. 2001-73, states that the criteria for naming a City facility may be accomplished through a petition process with the appropriate commission. If the proposed name is that of an individual, the individual must have contributed in a definitive way to the betterment of the Flagstaff community and its citizens. In addition, before the facility can be named after the individual, the individual must have been deceased for two years. Facility names may be changed by City Council approval. City staff and the community would like to commemorate the efforts of Mr. Jensen by renaming the Flagstaff Recreation Center in his honor to the Hal Jensen Recreation Center. Mr. Jensen meets the criteria required by Resolution No. 2001-73.

Financial Impact:

The cost of any new signage will be funded by the Marine League Charities. There is no fiscal impact to the City of Flagstaff.

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

Improve effectiveness of notification, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments **REGIONAL**

PLAN:

Goal REC.1. Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Policy Rec. 1.1 Integrate active and passive recreational sites within walking distance throughout the region to promote a healthy community for all City and County residents and visitors.

Has There Been Previous Council Decision on This:

No

Options and Alternatives:

- 1)Approve the proposal to rename the Flagstaff Recreation Center to the "Hal Jensen Recreation Center".
- 2) Deny the request

Background/History:

Hal Jensen passed away on October 6, 2012 after many years of giving back to the community of Flagstaff. Mr. Jensen has long been recognized as a community leader and an advocate throughout Flagstaff and surrounding communities. His efforts have impacted generations of people and his generosity transcended all age groups. Mr. Jensen's involvement in Toys For Tots spanned nearly 20 years and has impacted tens of thousands of deserving youth in the Flagstaff area. He has also been involved with many other programs which are highlighted in the attached letters of support.

Key Considerations:

There has been no opposition made against this proposal.

Community Benefits and Considerations:

Per the Resolution 2001-73, the naming of a municipal facility should normally be done in conjunction with the community or neighborhood that will be served by the facility and if an individual or organization's name, must be "accepted by the general public and/or the related professional field as a local, state, or national hero/contributor, or has historical significance." Many people would submit that Mr. Jensen meets or exceeds this Resolution's criteria.

Community Involvement:

Collaborate

At the Parks and Recreation Commission meeting held on April 15, 2015 there were many present from the public to supportive this initiative. At this meeting the Parks and Recreation Commission unanimously support the renaming of the Flagstaff Recreation Center to the Hal Jensen Recreation Center. Letters of support for the renaming the Flagstaff Recreation Center have been received and are attached to this staff summary. No one spoke in opposition to the recommendation at the Commission meeting.

Attachments: [Res. 2015-22](#)
 [Res. 2001-73](#)
 [letters of support](#)
 [P&R commission minutes](#)

RESOLUTION NO. 2015-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, RENAMING THE FLAGSTAFF RECREATION CENTER TO THE “HAL JENSEN RECREATION CENTER” AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the Flagstaff City Council established a policy for the naming of City of Flagstaff facilities in Resolution No. 2001-73; and

WHEREAS, Harold (Hal) Jensen contributed in a definitive way to the betterment of the Flagstaff community and its citizens, and the community wishes to honor his memory by renaming the Flagstaff Recreation Center the Hal Jensen Recreation Center; and

WHEREAS, the Parks and Recreation Commission recommends that the Flagstaff Recreation Center be renamed the Hal Jensen Recreation Center; and

WHEREAS, Harold (Hal) Jensen has been deceased for more than two years; and

WHEREAS, Harold (Hal) Jensen meets the criteria required by Resolution No. 2001-73.

ENACTMENTS:

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

Section 1.

That the Flagstaff Recreation Center located at 2403 North Izabel Street be renamed the “Hal Jensen Recreation Center” in honor of Mr. Jensen’s contributions to the community.

Section 2.

This resolution shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the Flagstaff City Council this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

RESOLUTION NO. 2001-73

**A RESOLUTION OF THE CITY OF FLAGSTAFF CITY COUNCIL
ESTABLISHING A POLICY FOR NAMING OR CHANGING THE NAME
OF CITY FACILITIES.**

WHEREAS, selecting a name for a public facility is an important aspect of defining a community; and

WHEREAS, the Mayor and Council wish to establish criteria by which City of Flagstaff facilities are named;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The Mayor and Council of the City of Flagstaff authorize a resolution to establish a policy for naming City of Flagstaff facilities. "City facilities" include, but are not limited to, buildings, portions or rooms of buildings, parks, streets, and special areas owned by the City in fee or dedicated to or by the City for the public's use or benefit.

SECTION 2. The procedure for naming City facilities is as follows:

1. All recommendations for a facility name shall be forwarded to the appropriate Commission, i.e., library facilities to Library Commission, parks to Parks and Recreation Commission, streets to Traffic Commission as applicable.
2. A person or group wishing to submit a request for consideration of a proposed name shall submit a written request for consideration to the City Manager or designee who shall forward the request to the appropriate Commission staff liaison. The written request will include the reason for the

proposed name, indicate the level of community support for the proposed name, and provide additional written materials for justification and or clarification.

3. Staff members affiliated with facility development may initiate efforts to solicit input from the community for suggested facility names. This may be accomplished through various means, and may include naming contests, ballots, public workshops, and similar participation processes.
4. The naming of a facility shall normally be done in conjunction with the community or neighborhood that will be served by the facility.
5. A new facility shall be named as early as possible. Ideally the facility is named prior to the beginning of design for development so that the facility/area takes on an early identification and allows for proper tracking during development. At the latest, the naming of a newly constructed facility shall be done to coincide with the completion of construction and/or dedication ceremonies.
6. The appropriate Commission shall process naming proposals in a manner to provide thorough review. The Commission shall forward no more than three recommendations for each facility to the City Council. The City Council may accept the recommendations and shall make a final selection, or return the matter to the Commission for further review.

SECTION 3. Acceptable criteria for names for City facilities are as follows:

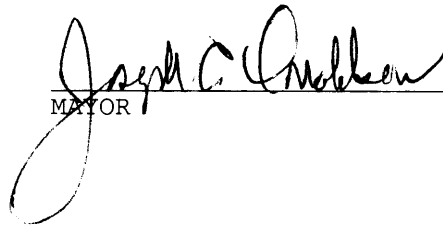
1. The proposed name describes the geographical area where the facility is located.
2. The proposed name describes something specifically unique to Flagstaff or Northern Arizona (flora, fauna, geology, Native American or other cultural descriptive terminology).
3. The proposed name acknowledges significant financial support received from either an individual or an organization that pays for the land, facility construction, and/or on-going operating and maintenance needs of the facility. Commercial names shall not be used for permanent naming.

4. The proposed name acknowledges significant non-monetary support received from either an individual or an organization that contributed in a definitive way to the betterment of the Flagstaff community and its citizens. The individual or organization must be accepted by the general public and/or the related professional field as a local, state, or national hero/contributor, or has had historical significance. If the proposed name is that of an individual, the person must have been deceased for two years.
5. Although not encouraged, facility names may be changed under extraordinary circumstances if justified and recommended by the Commission and approved by the City Council.

SECTION 4. The following topics, while related, are exempt from this policy:

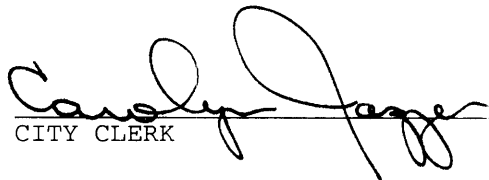
1. Corporate Sponsorship. Financial sponsorship of a temporary nature will be addressed in a separate process.
2. Equipment Donations. A person or group may wish to donate a special piece of equipment to a facility. Plaque dedications, paid for by the donor in conjunction with the equipment, have traditionally been used and do not require formal naming considerations. The staff member with functional administrative responsibility for the respective facility, i.e. Library Director for library or Parks and Recreation Director for swimming pool, has the authority to determine the procedure for recognizing these contributions. The City of Flagstaff is not obligated to maintain donations of equipment in perpetuity.
3. Volunteer Labor and Beautification. A portion of a facility may be "adopted" by a person or group wishing to provide volunteer labor for maintenance and beautification of the facility. These facilities shall not be re-named for the individual or group; however, temporary signage may be installed to acknowledge the assistance of the individual or group.

PASSED AND ADOPTED by the Council and approved by the Mayor of the City of Flagstaff, this 2nd day of October, 2001.



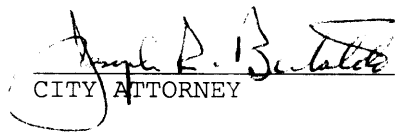
MAYOR

ATTEST:



CITY CLERK

APPROVED TO AS FORM:



CITY ATTORNEY



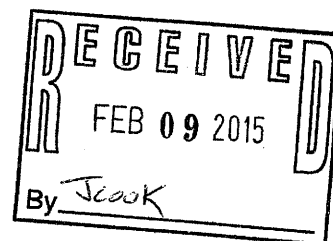
Marine League Charities

an Arizona 501.C(3) Not-For-Profit Charitable Corporation EID 86-0944607

San Francisco Peaks Detachment

P.O. Box 127 • Flagstaff, Arizona 86002-0127

February 5, 2015



Mr. Jeff Meilbeck
Interim Manager, City of Flagstaff
Flagstaff City Hall
211 W. Aspen Avenue
Flagstaff, AZ 86001

Dear Mr. Meilbeck:

In accordance with Resolution 2001-73, we are writing to you with a proposal for renaming the Flagstaff Recreation Center, located at 2403 N. Isabel Street, the "Hal Jensen Memorial Recreation Center." Sadly, Hal Jensen passed away on October 6, 2012 after many years of giving back to the community of Flagstaff. This letter will serve to present his lifetime record of "long term unconditional service to the community", including his outstanding volunteer contributions in Flagstaff since his family moved here in 1978.

Harold "Hal" Jensen, II was born and raised in Eugene, Oregon, where his sense of community service was instilled in him by his family. During the summers of World War II, he served as a U.S. Forest Service fire fighter. He also helped roll bandages for the Red Cross, assisted his father in plane lookout, participated in U.S. War Bond drives and collected items essential to the war effort. Having given up a basketball scholarship to Oregon State University to join the United States Marine Corps in 1948, he rose to the rank of Second Lieutenant and later served in Vietnam from 1967 to 1968.

Hal retired as a Major from the Marine Corps in 1974 after over 26 years of distinguished service and accepted a position as the Senior Military Instructor for the Marine Corps Junior ROTC program at Tuba City High School. In 1978, he moved his family to Flagstaff, where he worked for Golightly Tire Company, and then went into the real estate business until his retirement. He encouraged his family to be active in the Flagstaff community, setting an example himself as an avid hiker and marathon participant, as well as a supporter of many Flagstaff events and non-profits.

*Benefiting Local Charities including Flagstaff Community Toys for Tots,
the Wounded Marine Program, and Flagstaff Youth Program*

He was a charter and life member of the Marine Corps League, San Francisco Peaks Detachment #912 from its incorporation in 1995. Hal had a deep interest and passion for the Marine Corps Reserves Toys for Tots Program, and he worked tirelessly through the Marine Corps League and the Detachment's Marine League Charities programs to establish Flagstaff Community Toys for Tots here in Flagstaff. In its very first year (1995), the Detachment held three Christmas parties – at Killip and South Beaver Elementary Schools, and the Hotel Monte Vista - and distributed 3000 toys to 1000 deserving children.

On June 1, 2005, Hal Jensen and Jim Cullen were recognized and received "The Chapel of Four Chaplains" award for raising community awareness of the need for cooperation among all people through the Flagstaff Community Toys for Tots Program. This award is given to those who "model the giving spirit and unconditional service to community, nation and humanity." Previous recipients include Harry Truman, Dwight Eisenhower, James Carter and Ronald Reagan, as well as deserving military personnel, veterans and civilians that exhibited those same characteristics.

Since its inception, the Flagstaff Community Toys for Tots program has continued to expand and thrive annually in our community, spurred on by Hal's continual reminder: "Every child deserves a Christmas." In 2011 – Hal's last year of participation before his death – 14,749 toys were distributed to 9,633 needy kids, and that performance continues to grow, thanks to dozens of hard-working volunteers who have been indelibly inspired by the tireless example set by Hal Jensen over many years of devoted service.

In recent years, Hal served as Vice President to the Board of Marine League Charities (MLC). In that leadership role, he contributed countless hours in support of the Board's impressive charitable programs. In addition to Flagstaff Community Toys for Tots, Hal actively participated and garnered community support for:

- **The Flagstaff Youth Program**

Established to provide financial support to youth arts, academics, and sports programs of Northern Arizona and to fund in part community summer youth programs, this MLC initiative contributed over \$9000 to Flagstaff youth for these activities in 2011.

- **The Coconino Community College Scholarship Fund**

This fund provides an annual \$1000 scholarship for the benefit of Marine veterans and/or their sons and daughters to be used in the pursuit of an Associate Arts/Science Degree.

- **The Wounded Marine Program**

This program provides activities and funding for Wounded Marines and for relatives and friends visiting wounded Arizona Marines during their hospitalization and convalescence at the various Naval Hospitals and Wounded Marine Barracks throughout the country. Funding is also provided for activities and for relatives and friends visiting members of the other U.S. Armed Forces as funding permits.

- **The Marine Relief Program**

This program funds and supports local Marines and former active duty Marines and their families when a need arises.

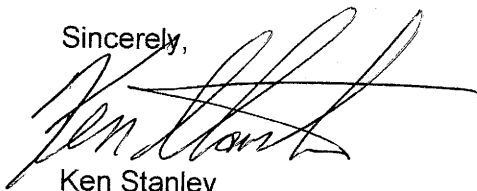
Hal's friends remember him fondly as a determined and creative fund raiser. His leadership and tireless efforts were key in the development of the annual "Raffle Party" at the High Country Conference Center, the major fundraiser for Flagstaff Community Toys for Tots. His gentle demeanor earned him the friendship and respect of potential contributors who quickly became supporters of MLC's various programs. And when it came to recruiting volunteers, apparently no one could ever tell Hal "no"!

The loss of Hal Jensen has left a significant void in the Flagstaff volunteer community. Always humble, Hal quietly devoted his life to providing help for those in Flagstaff who needed it most. Notably, he exhibited a unique, extraordinary commitment to the young people of our town. It is for that reason that we propose The Flagstaff Recreation Center be renamed "The Hal Jensen Memorial Recreation Center" in honor of his devotion to Flagstaff's youth.

The approval of this proposal would have no financial impact to the City of Flagstaff. All signage requirements and commencement ceremonies would be paid for by Marine League Charities.

Please do not hesitate to call if you have any questions or need additional information. Thank you for your consideration.

Sincerely,



Ken Stanley
President, Marine League Charities Board

Representing the MLC Board:

Robert Wiley, Vice President
Robert Herman, Secretary
Ervin Boren, Treasurer

Directors:

Ralph Boyer
Pat Carr
Emerson Cleveland
Mary Ann Cullen
Joe Donaldson
Bill Gow
Richard Herr
Ricky Roberts

Barry Brennan
Kenneth Dowers
Walter Good

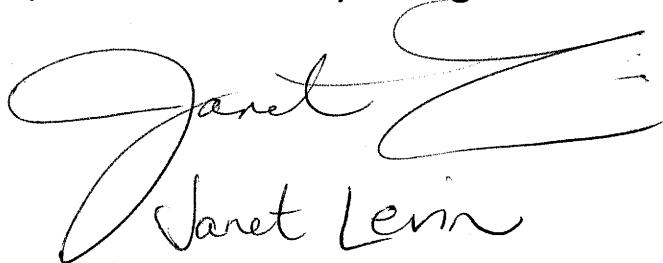
Petition to rename Flagstaff Recreation Center

Dear sirs,

We, friends of Hal Jensen Memorial, would request your consideration in the renaming of the Flagstaff Recreation Center to honor one of Flagstaff 's best.

Hal Jensen was one of most outstanding community minded citizens Flagstaff has ever known.

Hal Jensen founded the Toys for Tots organization which today distributes toys to over 9,000 children annually. He helped the Flagstaff Youth Program stay in existence. He also helped in the funding FFAST .(Flagstaff Arts and Sports Together) and the Wounded Marine Program. Hal spent the last 20 years of his life in the service of others, and was recognized for his efforts by the community being named Citizen of the year in 2011.



Janet Levin

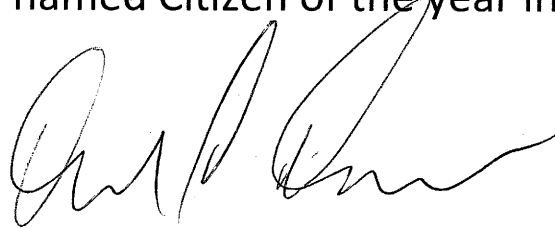
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A handwritten signature in black ink, appearing to read 'David McCormick', written in a cursive style.

DAVID MCCORMICK



AN AMERICAN HOLIDAY TRADITION

Christmas is a time of joy, happiness and goodwill. It is a time of giving and helping those who are less fortunate than ourselves, especially impoverished children. For the past 67 years, one organization – the U.S. Marine Corps – is the unchallenged leader in looking after America's needy children at Christmas.

In 1947, Major Bill Hendricks – with the support of members of his Los Angeles Marine Corps Reserve Unit – collected and distributed 5,000 toys to needy children. Bill's program was so successful that in 1948, the U.S. Marine Corps adopted it and expanded it nationwide as the U.S. Marine Corps Reserve Toys for Tots Program. In the intervening years, Marines have conducted 67 successful campaigns, collecting and distributing over two hundred million plus toys.

The program has enjoyed the support of an array of notable Americans. Walt Disney designed the Toys for Tots logo. Nat "King" Cole and Peggy Lee recorded the Toys for Tots song. Bob Hope, John Wayne, Brooke Shields, and Johnny Carson are but a few of the long list of celebrities who have used their time and talent to promote Toys for Tots. Former First Lady Barbara Bush served as the honorary national chairperson in 1992 and in her autobiography named Toys for Tots as one of her favorite charities.

Today, Toys for Tots is the Marine Corps' premier community relations program. For many Americans, Christmas isn't complete without the image of uniformed Marines collecting and distributing toys to needy children of their communities. Distributing an average of seven million toys annually, Marines bring the joy of Christmas to nearly three and one half million needy children each Christmas.

EVERY CHILD DESERVES A CHRISTMAS

PARKS AND RECREATION COMMISSION
WEDNESDAY, APRIL 15, 2015

SUMMARIZED MINUTES

MEMBERS PRESENT

Ardis Easton
Jessica Fitchett
Adam Kaupisch
Gregory Kleiner
Jim Stratton
Thomas Ziegler

STAFF PRESENT

Kathy Drummond
Brian Grube
Gail Jackson
David McIntire
Steve Zimmerman

OTHERS PRESENT

Ervin Boren
Ralph Boyer
Barry Brennan
Mary Ann Cullen
Jennifer Grogan
Ricky Roberts
Ken Stanley

MEMBERS ABSENT

Charles Hammersley

1. **CALL TO ORDER**

The meeting was called to order by Commissioner Ziegler at 4:03 p.m.

2. **ROLL CALL**

Commissioners Fitchett, Kaupisch, Kleiner, Stratton, and Ziegler were present for roll call. Commissioner Easton arrived at 4:17 p.m. and Commissioner Hammersley was absent.

3. **APPROVAL OF MARCH 11, 2015 MINUTES**

Motion made by Commissioner Kleiner to approve the March 11, 2015 minutes as written. The motion was seconded by Commissioner Kaupisch. Motion passed with unanimous approval (5 yea votes).

4. **PUBLIC PARTICIPATION**

5. **ACTION ITEMS**

A. **Renaming the Flagstaff Recreation Center to the Hal Jensen Memorial Recreation Center - Marine League of Charities.** Members from the local Marine League Charities (MLC) requested that the Parks and Recreation Commission consider making a recommendation to City Council to change the name of the Flagstaff Recreation Center to the "Hal Jensen Memorial Recreation Center." Individuals gave testimony and shared their personal experiences with Mr. Jensen's generosity in helping children and families and his lifetime record of "long term unconditional service to the community." Mr. Jensen retired as a Major from the Marine Corps in 1974 after over 26 years of distinguished service. He encouraged his family to be active in the Flagstaff community, setting an example himself, as well as being a supporter of many Flagstaff events, including the Flagstaff Youth Program, the Coconino Community College Scholarship Fund, the Wounded Marine Program, and the Marine Relief Program. Motion made by Commissioner Kleiner to recommend to City Council that Flagstaff Recreation Center be renamed Hal Jensen Memorial Recreation Center. The motion was seconded by Commissioner Fitchett. Motion passed unanimously with five (5) yea votes.

ACTION ITEMS (Cont'd.)

- B. Flagstaff Veteran's Home – David McIntire, Assistant to the City Manager, Real Estate. A Department of Veteran Services (DVS) representative recently met with City staff to tour potential locations for a 60 bed skilled care facility for Veterans. A portion of the City owned land with Assessor Parcel Number (APN) 109-02-001N was the preferred location for the DVS and the only parcel they felt met their needs. This area on top of McMillan Mesa is eleven (11) acres in size.

The facility could provide 60 beds and skilled care for veterans and would serve the northern Arizona region. It is estimated that this facility could bring up to 80 new jobs to Flagstaff that pay an average wage of \$16.77-\$19.86 per hour. The City's contribution is limited to the provision of the land and the soft costs (appraisal, title work, survey work) associated with that provision. The construction costs and operations costs would come exclusively from state and federal agencies.

The City property under consideration is zoned Rural Residential and is listed in the Regional Plan as undesignated per City Council direction during the October 2013 land inventory discussion. It has been a part of a number of adopted plans as well and has been considered both for development and preservation in various contexts. It sits between an existing urban trail (FUTS), electrical easement, the Gemini Drive right of way, and an APS substation. There may be a need to preserve some small portion of the parcel for cinder storage efficiencies.

There is still discussion regarding the best option for providing the land should Council choose that direction. Giving the land through donation would require an ordinance and deed and is the method requested by DVS. The ordinance and the deed would require the property return to City ownership should the project not proceed within a reasonable and defined time period. Should the preferred direction be a long term intergovernmental agreement with the State of Arizona, that would be approved by Resolution, and would also contain provisions recapturing the land if the facility is not constructed within a certain time period. It is not certain that DVS would approve this option.

There have been previous discussions about a process for evaluating land donation requests, however there is not a clear City policy at this time. The City Attorney is currently looking into any legal issues that could be associated with this transaction. There are a number of steps to take in the near term to move the project forward while providing Council the information necessary to make final decisions. Administrative staff will proceed with the following:

- Conduct outreach efforts by meeting with Open Spaces and Parks and Recreation Commissions, local veterans groups and conduct a Town Hall meeting.
- Research any charter and procurement implications of providing the contribution through donating land, leasing land, and or an intergovernmental agreement.
- Work with DVS to determine the additional steps needed to proceed.
- Bring discussion and action items to City Council for consideration as needed to provide appropriate opportunities for public input and to have a final decision on the provision of land.
- Provide information to City Council as needed for their efforts to discuss these items with State and Federal policy makers.

ACTION ITEMS (Cont'd.)

Motion made by Commissioner Kleiner to table this item until next month. The motion died for lack of second motion. Motion made by Commissioner Kaupisch to recommend to City Council approval of the parcel for the proposed Veteran's facility with a caveat of returning the land to City ownership if after 5 years they haven't secured the funding and after 7 years if they haven't begun construction. The motion was seconded by Commissioner Stratton. Motion passed with five (5) yea votes and one nay vote. An open house soliciting public input will be held on April 28 at City Hall at 4:30 p.m.

5. DISCUSSION/STANDING ITEMS

- A. Snow Play Update. City staff was recently approached by an individual who wants to pursue a snow play area on McMillan Mesa. A Council communication will be drafted and presented to the City Council by next week.
- B. Bushmaster Park Update. Construction documents have been presented to the City's Procurement Office and they will be developing a bid schedule. It is anticipated that the bids will open on April 30, with a contract presented to City Council at their May 26 meeting.
- C. Recreation Services Update – Budget , 50k Programming Challenge, Capital Projects and Aquaplex. Staff is reviewing the process for selling advertising space at the Thorpe Park Softball Fields. It is unclear at this time whether or not the program will have to go out for bid. A projected \$6 to \$8 thousand dollars in additional revenue is anticipated. Staff has ordered the access control equipment for the Aquaplex and it is anticipated it will be delivered and installed by the end of the month. The Ice Rink will be closing on April 27 for their annual closure and repairs. A rust inhibitor will be applied to the beams, improvements will be made to the locker rooms and a thermal energy blanket will be installed which will help with humidity and utility costs.
- D. Changes to the Special Event Packet. Staff is working with the Legal Department on changes to the Special Event Permit Packet for Heritage Square and street closures. A provision has been added to limit the number of special events at Heritage Square that have the primary purpose of offering goods or services for sale. Such events will be considered primary retail sales events and be limited to one per month at Heritage Square. The proposed changes were presented to Council at their March 31 meeting and will be revisited at one of their May meetings.

7. REPORTS

- A. Monthly Highlights of Parks and Recreation. Both Parks and Recreation reports stand as submitted in the Commission packet.

8. AGENDA ITEMS FOR THE MAY 20, 2015 MEETING

- A. Bushmaster Park Update

9. ADJOURNMENT

The meeting adjourned at 5:37 p.m.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 06/01/2015
Meeting Date: 06/02/2015



TITLE:

Reconsideration of Resolution No. 2015-16: Regarding a Veteran's Facility on McMillan Mesa ***MOVED FROM ROUTINE AGENDA**

RECOMMENDED ACTION:

- 1) Should the Council wish to reconsider this item, a motion to reconsider Resolution No. 2015-16 would be required to be made (by a member voting with the majority).
- 2) Read Resolution No. 2015-16 by title only
- 3) City Clerk reads Resolution No. 2015-16 by title only (if approved above)
- 4) Adopt Resolution No. 2015-16

Executive Summary:

Attached is a request from Councilmember Oravits to reconsider Resolution No. 2015-16, the donation of land to the Department of Veterans Services. In accordance with Rule 10.9 of the adopted City Council Rules of Procedure, *"after the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken."* Since Councilmember Oravits voted with the majority, he is permitted to request a reconsideration.

Financial Impact:

None

Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

The City Council approved an amended Resolution No. 2015-16 at their meeting of May 19, 2015; however, Councilmember Oravits has subsequently submitted a written request for reconsideration.

Options and Alternatives:

- 1) Support reconsideration of Resolution No. 2015-16
 - 2) Not support reconsideration of Resolution No. 2015-16
-

Attachments: Request for Reconsideration
Res. 2015-16 Amended & Adopted



City of Flagstaff



May 26, 2015

Liz Burke, City Clerk

Pursuant to the City Council rules of procedure, rule 10.09, I hereby request a reconsideration of the motion to amend the proposed resolution on May 19, 2015, regarding the land donation to the department of Veterans Services, and the resolution that was approved on May 19, 2015.

Thank you,

Jeff Oravits

RESOLUTION NO. 2015-16

RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, MEMORIALIZING DIRECTION FOR STAFF TO BRING AN ORDINANCE FOR CONSIDERATION PROVIDING APPROXIMATELY EIGHT ACRES OF LAND ON MCMILLAN MESA TO THE ARIZONA DEPARTMENT OF VETERANS' SERVICES ("AZDVS") FOR USE AS A SKILLED NURSING FACILITY TO SERVE VETERANS

RECITALS:

WHEREAS, the City Council is authorized under the Flagstaff City Charter to make decisions regarding the disposition of real property (land) owned by the City of Flagstaff; and

WHEREAS, the ability of City staff and the community to know and understand the City Council's desires regarding certain parcels of unrestricted land is beneficial to the future disposition of the parcels; and

WHEREAS, on March 10, 2015, City staff presented to City Council a potential opportunity to provide a City-owned portion of McMillan Mesa to AZDVS for a veterans' facility; and

WHEREAS, staff has presented this proposed action to the Open Spaces Commission and the Parks and Recreation Commission and held two public open houses; and

WHEREAS, to complete the provision of land to AZDVS for a veterans' facility, an ordinance and specific legal documents must be approved by the City Council.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA does hereby memorialize its direction to provide approximately eight (8) acres of City land on McMillan Mesa to AZDVS through an appropriate mechanism as follows:

Section 1. The parcel identified as Coconino County Assessor Parcel Number (APN) 109-02-001N, will have an ordinance brought forward for City Council consideration and possible action to provide approximately eight (8) specific acres of said parcel to the AZDVS for use in developing and operating a minimum 60-bed skilled nursing facility for veterans.

Section 2 Said ordinance will have a legal description for the specific eight (8) acres and clearly articulated provisions related to the recapture of the entire eight (8) acres of land by the City of Flagstaff within a prescribed period of time.

Section 3 Said ordinance will prohibit AZDVS from selling, transferring or leasing the land or operation.

Section 4. The City of Flagstaff will require AZDVS to comply with the City of Flagstaff's Outdoor Lighting Standards.

Section 5. The City of Flagstaff will require AZDVS to limit the height of the veterans' facility buildings to two stories.

Section 6. The City of Flagstaff will require AZDVS to work with the Flagstaff community to identify an appropriate design for the facility that fits within the City's existing landscape.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 19th day of May, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE

Discussion and Possible Action: Options related to joining the Flagstaff Living Wage Coalition's legal action challenging the constitutionality of ARS 23-204, which preempts local authority to regulate compensation and benefits contrary to voter adopted Proposition 202. **(PREVIOUSLY AGENDA ITEM 15-B)**

RECOMMENDED ACTION:

Council direction

EXECUTIVE SUMMARY:

On May 5, 2015 three Councilmembers agreed to place the above-referenced issue on the agenda for discussion and possible action.

In 2006 the voters of Arizona passed an initiative entitled "Raise the Minimum Wage for Working Arizonans Act or Proposition 202." That proposition authorizes cities, towns or counties to regulate local minimum wages and benefits as long as those wages are no lower than the state minimum wage. (A.R.S. 23-364(I)).

The Voter Protection Act prohibits the repeal by the Legislature of such initiatives and the Legislature cannot supersede or amend an initiative except by a three-fourths super-majority of each legislative body, and then only if such law furthers the objectives of the referendum or initiative. (Ariz. Const., Art. 4, pt. 1, Section 1, (6)(B)-(C), (14).)

In 2013, the Arizona Legislature, by majority vote, adopted A.R.S. 23-204 which attempts to preempt for the City's authority to regulate local compensation and benefits.

According to the Living Wage Coalition's Complaint, these two laws – one granting local authority on the issue of wages and benefits and the other attempting to take it away are in direct conflict.

On April 10, 2015, the Flagstaff Living Wage Coalition filed a complaint to declare A.R.S. 23-204 passed by the Arizona Legislature in 2013 unconstitutional in order to restore local control over local issues. The lawsuit is not directly about increasing minimum wage; it is about clearing up the confusion that exists in Flagstaff (and other communities) about cities' authority to legislate in this area.

Options for discussion:

1. The City may seek permission or claim a right to join the lawsuit as a plaintiff along with the Flagstaff Living Wage Coalition. The attorneys representing the Coalition have offered to represent the City in this litigation without charge of attorneys' fees.

2. The City may wait for the ruling of the Superior Court. If the Superior Court rules against the Flagstaff Living Wage Coalition, then the City could decide to write an amicus brief in support of municipal control of setting minimum wages. This could be handled in-house, displacing other work, or sent to outside counsel.

3. The City could adopt a resolution supporting or opposing the litigation.

4. The City could do nothing.

INFORMATION:

COUNCIL GOALS:

10) Decrease the number of working poor

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Brandi Suda, Finance Manager
Co-Submitter: Rick Tadder, Finance Director
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE:

Consideration and Adoption of Resolution No. 2015-19 A resolution of the Council of the City of Flagstaff, Arizona adopting the tentative estimates of the amounts required for the public expense for the City of Flagstaff for Fiscal Year 2015-2016; adopting a Tentative Budget; setting forth the receipts and expenditures; the amount proposed to be raised by direct property taxation; giving notice of the time for hearing taxpayers, for adopting of Budget and for fixing the tax levies. ***(Adopt Tentative Budget for City FY 15-16)*** **PREVIOUSLY AGENDA ITEM 15-C**

RECOMMENDED ACTION:

- 1) Read Resolution No. 2015-19 by title only
- 2) City Clerk reads Resolution No. 2015-19 by title only (if approved above)
- 3) Adopt Resolution No. 2015-19

Executive Summary:

Arizona State Statutes (ARS. §42-17101, 42-17102, and 42-17105) require that each municipality adopt and publish, in a specified format, a tentative budget. The adoption of the tentative budget has the effect of establishing an amount that cannot be exceeded in the final adoption of the budget. Furthermore, the adoption of the tentative budget sets into motion a legally mandated time sequence of actions to which the Council must adhere to adopt a final budget and to levy property taxes.

Financial Impact:

The tentative budget must be adopted to set the appropriate sequence of events in place for final budget adoption.

Connection to Council Goal and/or Regional Plan:

Invest in our employees and implement retention and attraction strategies

Provide sustainable and equitable public facilities, services and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

As well as impacts many other Council goals

Has There Been Previous Council Decision on This:

- December Budget Retreat on December 9 & 10, 2014
- Mini Budget Advance on January 22 & 28, 2015
- February Budget Advance on February 11 & 12, 2015
- Council Budget Advance on April 21 & 22, 2015

Options and Alternatives:

The City could delay the tentative budget adoption until no later than the 3rd Monday in July. While the City would be able to continue operations through a Continuing Disclosure resolution, the City would not be able to commit to any expenditure directly related to the FY 2015-2016 budget.

Background/History:

The budget is generally presented for tentative adoption in late May or early June to assure funding is appropriated within Council goals and objectives at the beginning of the fiscal year.

At the December 2014 budget retreat, Council concluded that the priorities for the FY2016 budget include: employee investment, staffing and technology and infrastructure.

During the February 2015 budget advance, Council provided direction on potential increased revenue opportunities and other fund reallocations.

During the April budget advance, Council provided additional adjustments and they are included in the budget. After the April budget advance divisions provided revised year end estimates and carryover of funding primarily for capital projects. Divisions are provided this opportunity as the previous estimates they provided were in January.

Key Considerations:

The adoption of the tentative budget sets into motion a legally mandated time sequence of actions to which the Council must adhere to adopt a final budget and to levy property taxes. If this time sequence is not met as required by statute, the tentative adoption, final adoption of the budget and property tax levy actions, and related publications must be started over.

The process is prescribed through Arizona State Statute. The tentative budget must be adopted no later than the 3rd Monday in July. The schedules for Council budget and property tax levy actions are as follows:

June 2, 2015	Tentative adoption of budget by Council
June 16, 2015	Proposed budget and property tax levy hearing
June 16, 2015	Final budget adoption (done in a Special Meeting)
June 16, 2015	First reading property tax ordinance
July 7, 2015	Final reading and adoption of property tax ordinance

Expanded Financial Considerations:

Funds must be appropriated to allow for expenditures to occur. The tentative budget must be adopted to set the appropriate sequence of events in place for final budget adoption.

Community Benefits and Considerations:

The Community has the opportunity to present any questions or concerns regarding the budget before the final budget adoption occurs in June.

Community Involvement:

Inform and Involve: The Community has the opportunity to be involved at the public hearing held in conjunction with final adoption. Citizens are welcome to attend Council Budget Advances. The City Manager's recommended budget was discussed during the Council Budget Advance on April 21 and 22, 2015. Public participation was available.

Attachments: Res. 2015-19

RESOLUTION NO. 2015-19

A RESOLUTION OF THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ADOPTING THE TENTATIVE ESTIMATES OF THE AMOUNTS REQUIRED FOR THE PUBLIC EXPENSE FOR THE CITY OF FLAGSTAFF FOR THE FISCAL YEAR 2015-2016; ADOPTING A TENTATIVE BUDGET; SETTING FORTH THE RECEIPTS AND EXPENDITURES; THE AMOUNT PROPOSED TO BE RAISED BY DIRECT PROPERTY TAXATION; GIVING NOTICE OF THE TIME FOR HEARING TAXPAYERS, FOR ADOPTING OF BUDGET AND FOR FIXING THE TAX LEVIES

ENACTMENTS:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AS FOLLOWS:

SECTION 1. That the accompanying statements and exhibits attached to this Resolution as Schedules A, B, C, D, E, F and G are incorporated herein by this reference, and are hereby adopted as the tentative budget for the City of Flagstaff for the fiscal year 2015-2016.

SECTION 2. That the City Clerk be, and she hereby is, authorized and directed to publish in the manner prescribed by law the estimates of expenditures as set forth in Schedules A, B, C, D, E, F and G together with a notice that the Council will meet on June 16, 2015, for the purpose of final hearing of taxpayers and for adoption of the 2015-2016 Annual Budget for the City of Flagstaff with the final reading and adoption of the property tax ordinance on the 7th day of July, 2015, at the hour of 6:00 p.m. in the Council Chambers at 211 West Aspen, Flagstaff, Arizona.

SECTION 3. Upon the recommendation by the Manager and with the approval of the Council, expenditures may be made from the appropriation for contingencies. The transfers of any sums within any specific appropriation may be made only upon the approval of the Council.

SECTION 4. Money from any fund may be used for any of these appropriations, except money specifically restricted by State Law or by City Ordinance or Resolution.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of June, 2015.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

OFFICIAL BUDGET FORMS

CITY OF FLAGSTAFF

Fiscal Year 2016

CITY OF FLAGSTAFF
TABLE OF CONTENTS
Fiscal Year 2016

Resolution for the Adoption of the Budget

Schedule A—Summary Schedule of Estimated Revenues and Expenditures/Expenses

Schedule B—Tax Levy and Tax Rate Information

Schedule C—Revenues Other Than Property Taxes

Schedule D—Other Financing Sources/<Uses> and Interfund Transfers

Schedule E—Expenditures/Expenses by Fund

Schedule F—Expenditures/Expenses by Department (as applicable)

Schedule G—Full-Time Employees and Personnel Compensation

CITY OF FLAGSTAFF
Summary Schedule of Estimated Revenues and Expenditures/Expenses
Fiscal Year 2016

THE FINAL OPPORTUNITY FOR PUBLIC INPUT ON THE CITY OF FLAGSTAFF FISCAL YEAR 2015-2016 BUDGET WILL OCCUR
ON JUNE 16, 2015 AT 6:00 P.M. IN THE CITY COUNCIL CHAMBERS, 211 W. ASPEN AVENUE, FLAGSTAFF, AZ
The budget may be reviewed at the City of Flagstaff in the City Clerks Office, 211 W. Aspen Avenue, Flagstaff AZ 86001
Or the Flagstaff City-County Public Library, 300 W. Aspen Avenue, Flagstaff AZ 86001
Or the East Flagstaff Community Library, 3000 N. 4th Street, Flagstaff, AZ 86004 or the official website "flagstaff.az.gov"

Fiscal Year	S c h	FUNDS							
		General Fund	Special Revenue Fund	Debt Service Fund	Capital Projects Fund	Permanent Fund	Enterprise Funds Available	Internal Service Funds	Total All Funds
2015 Adopted/Adjusted Budgeted Expenditures/Expenses*	E	57,416,299	51,433,188	8,237,044	47,203,426	0	73,894,445	0	238,184,402
2015 Actual Expenditures/Expenses**	E	51,904,628	33,375,402	8,159,689	10,218,299	0	47,785,491	0	151,443,509
2016 Fund Balance/Net Position at July 1***		23,294,618	29,648,252	13,804,264	82,104	256,627	26,683,660		93,769,525
2016 Primary Property Tax Levy	B	5,627,083							5,627,083
2016 Secondary Property Tax Levy	B			5,728,437					5,728,437
2016 Estimated Revenues Other than Property Taxes	C	49,717,762	41,168,005	661,050	10,074,827	25,309	54,359,017	0	156,005,970
2016 Other Financing Sources	D	0	10,000,000	0	27,142,245	0	5,509,996	0	42,652,241
2016 Other Financing (Uses)	D	0	0	0	0	0	0	0	0
2016 Interfund Transfers In	D	3,511,286	13,491,472	7,436,600	6,990,000	0	5,323,933	0	36,753,291
2016 Interfund Transfers (Out)	D	7,987,026	14,382,266	7,436,600	0	0	6,947,399	0	36,753,291
2016 Reduction for Amounts Not Available:									
LESS: Amounts for Future Debt Retirement:									0
									0
									0
									0
2016 Total Financial Resources Available		74,163,723	79,925,463	20,193,751	44,289,176	281,936	84,929,207	0	303,783,256
2016 Budgeted Expenditures/Expenses	E	60,958,146	61,663,573	8,037,450	39,698,616	0	71,359,812	0	241,717,597

EXPENDITURE LIMITATION COMPARISON

1. Budgeted expenditures/expenses
2. Add/subtract: estimated net reconciling items
3. Budgeted expenditures/expenses adjusted for reconciling items
4. Less: estimated exclusions
5. Amount subject to the expenditure limitation
6. EEC expenditure limitation

2015	2016
\$ 238,184,402	\$ 241,174,678
3,219,659	1,000,087
241,404,061	242,174,765
109,152,239	105,668,182
\$ 132,251,822	\$ 136,506,583
\$ 134,251,861	\$ 140,651,422

☐ The city/town does not levy property taxes and does not have special assessment districts for which property taxes are levied. Therefore, Schedule B has been omitted.

* Includes Expenditure/Expense Adjustments Approved in the current year from Schedule E.

** Includes actual amounts as of the date the proposed budget was prepared, adjusted for estimated activity for the remainder of the fiscal year.

*** Amounts on this line represent Fund Balance/Net Position amounts except for amounts not in spendable form (e.g., prepaids and inventories) or legally or contractually required to be maintained intact (e.g., principal of a permanent fund).

CITY OF FLAGSTAFF
EXPENDITURE LIMITATION
AND
TAX LEVY INFORMATION
FISCAL YEAR 2015-2016

	ESTIMATED FY 2014-2015	FY 2015-2016
Expenditure Limitation [Economic Estimates Commission]		\$ 140,651,422
Total Estimated Expenditures Subject to Expenditure Limitation		
1. Maximum Allowable Primary Property Tax Levy [ARS 42-17051.A] rev 6/06 HB 2876	\$ 5,901,999	\$ 6,091,109
2. Amount Received from Primary Property Taxation in FY 2011-2012 in Excess of the Sum of that Year's Maximum Allowable Primary Property Tax Levy [ARS 42-17102.A.18]	\$ -	
3. Property Tax Levy Amounts		
A. Primary Property Taxes	\$ 5,561,740	\$ 5,627,083
B. Secondary Property Taxes	5,611,045	5,728,437
C. Total Property Tax Levy Amount	\$ 11,172,785	\$ 11,355,520
4. Property Taxes Collected (Estimated)		
A. Primary Property Taxes:		
(1) FY 2014-2015 Levy	\$ 5,435,325	
(2) Prior Years' Levies	100,000	
(3) Total Primary Property Taxes Collected	5,535,325	
B. Secondary Property Taxes:		
(1) FY 2014-2015 Levy	5,611,045	
(2) Total Secondary Property Taxes Collected	5,611,045	
C. Total Property Taxes Collected	\$ 11,146,370	
5. Property Tax Rates		
A. City of Flagstaff Tax Rate:		
(1) Primary Property Tax Rate	0.8418	0.8234
(2) Secondary Property Tax Rate	0.8366	0.8366
(3) Total City Tax Rate	1.6784	1.6600
B. Special Assessment District Tax Rates:		

As of the date of the proposed budget, the city was operating one special assessment district for which secondary property taxes are levied. For information pertaining to this districts and its' tax rates, please contact the City Finance Department.

* Includes actual property taxes collected as of the date the proposed budget was prepared plus estimated property tax collections for the remainder of the fiscal year.

CITY OF FLAGSTAFF
SUMMARY BY FUND OF REVENUES OTHER THAN PROPERTY TAXES
FISCAL YEARS 2015 AND 2016
(WITH ACTUALS FOR FISCAL YEAR 2014)

SOURCE OF REVENUES	ACTUAL REVENUES 2013-2014	BUDGETED REVENUES 2014-2015	ESTIMATED ACTUAL REVENUES 2014-2015	BUDGETED REVENUES 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
GENERAL FUND						
Local taxes						
City Sales Tax	\$ 16,916,865	16,350,601	17,278,341	17,279,341	928,740	5.68%
Franchise Tax	2,486,617	2,462,093	2,440,000	2,485,140	23,047	0.94%
Licenses and permits						
Business Licenses	29,495	33,000	30,000	30,000	(3,000)	-9.09%
Building Permits	1,444,064	1,141,075	1,300,000	1,324,050	182,975	16.04%
Other Licenses and permits	389,852	218,930	254,600	260,930	42,000	19.18%
Intergovernmental revenues						
State Income Tax Sharing	7,342,048	7,920,000	8,033,971	7,928,250	8,250	0.10%
State Shared Sales Tax	5,733,507	5,760,175	5,850,000	5,958,225	198,050	3.44%
Vehicle License Tax	2,591,413	2,548,750	2,600,000	2,648,100	99,350	3.90%
Federal Grants	996,342	1,596,446	1,317,446	1,410,608	(185,838)	-11.64%
State Grants	812,601	1,853,381	953,381	2,574,479	721,098	38.91%
Local Intergovernmental Agreements	849,088	860,000	860,000	1,124,000	264,000	30.70%
Charges for services						
General Government	538,945	255,300	255,300	342,300	87,000	34.08%
Parks & Recreation	1,539,358	1,646,730	1,646,730	1,762,730	116,000	7.04%
Public Safety	626,926	957,100	957,100	961,766	4,666	0.49%
Cemetery	118,485	135,000	135,000	149,350	14,350	10.63%
Fines and forfeits	1,007,801	1,154,462	1,054,462	1,141,160	(13,302)	-1.15%
Interest on investments	198,515	216,000	218,145	221,050	5,050	2.34%
Miscellaneous revenues	2,879,009	1,717,552	1,670,495	2,116,283	398,731	23.22%
Total General Fund	46,500,931	46,826,595	46,854,971	49,717,762	2,891,167	6.17%
SPECIAL REVENUE FUNDS						
LIBRARY FUND						
Intergovernmental revenues						
State Grants	46,346	79,000	79,000	188,625	109,625	138.77%
Library District Taxes	3,951,377	5,501,560	3,437,196	4,882,490	(619,070)	-11.25%
Interest on investments	28,243	37,624	26,188	37,812	188	0.50%
Miscellaneous revenues	104,202	53,474	63,000	20,474	(33,000)	-61.71%
Total Library Fund	4,130,168	5,671,658	3,605,384	5,129,401	(542,257)	-9.56%
HIGHWAY USER REVENUE FUND						
Intergovernmental revenues						
Federal Grants	105,731	179,924	-	-	(179,924)	-100.00%
Highway User Tax	6,168,101	6,397,818	6,837,347	6,862,720	464,902	7.27%
Interest on investments	20,710	6,000	17,000	5,000	(1,000)	-16.67%
Miscellaneous revenues	1,370,011	442,500	442,500	-	(442,500)	-100.00%
Total Highway User Revenue Fund	7,664,553	7,026,242	7,296,847	6,867,720	(158,522)	-2.26%
TRANSPORTATION FUND						
Transportation Tax	11,769,839	11,459,192	14,410,730	17,585,692	6,126,500	53.46%
Interest on Investments	84,843	53,000	56,000	71,000	18,000	33.96%
Miscellaneous revenues	81,828	2,000,000	2,941,000	-	(2,000,000)	-100.00%
Total Transportation Fund	11,936,510	13,512,192	17,407,730	17,656,692	4,144,500	30.67%
FUTS FUND						
Intergovernmental revenues						
State Grants	-	129,419	151,211	183,597	54,178	41.86%
Interest on investments	7,715	6,640	6,350	6,750	110	1.66%
Miscellaneous revenues	(13,374)	-	-	-	-	0.00%
Total Beautification Fund	(5,659)	136,059	157,561	190,347	54,288	39.90%

CITY OF FLAGSTAFF
SUMMARY BY FUND OF REVENUES OTHER THAN PROPERTY TAXES
FISCAL YEARS 2015 AND 2016
(WITH ACTUALS FOR FISCAL YEAR 2014)

SOURCE OF REVENUES	ACTUAL REVENUES 2013-2014	BUDGETED REVENUES 2014-2015	ESTIMATED ACTUAL REVENUES 2014-2015	BUDGETED REVENUES 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
BEAUTIFICATION FUND						
Intergovernmental revenues						
State Grants	\$ 15,004	-	-	-	-	0.00%
BBB Tax	1,252,101	1,233,595	1,340,000	1,340,000	106,405	8.63%
Interest on investments	33,790	7,460	7,430	7,800	340	4.56%
Miscellaneous Revenues	124	-	-	-	-	0.00%
Total Beautification Fund	1,301,019	1,241,055	1,347,430	1,347,800	106,745	8.60%
ECONOMIC DEVELOPMENT FUND						
Intergovernmental revenues						
State Grants	54,647	35,000	35,000	200,000	165,000	471.43%
BBB Tax	594,805	585,958	636,500	636,500	50,542	8.63%
Interest on investments	15,251	6,933	6,933	7,257	324	4.67%
Miscellaneous revenues	40,020	97,531	40,531	155,342	57,811	59.27%
Total Economic Development Fund	704,723	725,422	718,964	999,099	273,677	37.73%
TOURISM FUND						
BBB Tax	1,878,334	1,850,393	2,010,000	2,010,000	159,607	8.63%
Retail Sales	79,519	86,000	84,000	85,000	(1,000)	-1.16%
Interest on investments	5,412	8,178	8,178	6,563	(1,615)	-19.75%
Miscellaneous revenues	36,231	65,657	65,657	25,913	(39,744)	-60.53%
Total Tourism Fund	1,999,495	2,010,228	2,167,835	2,127,476	117,248	5.83%
ARTS AND SCIENCE FUND						
BBB Tax	469,584	462,598	502,500	502,500	39,902	8.63%
Interest on investments	2,520	4,524	4,494	4,185	(339)	-7.49%
Total Arts and Science Fund	472,104	467,122	506,994	506,685	39,563	8.47%
RECREATION-BBB FUND						
BBB Tax	2,064,864	2,035,432	2,211,000	2,211,000	175,568	8.63%
Interest on investments	14,569	15,300	16,400	16,900	1,600	10.46%
Total Recreation-BBB Fund	2,079,433	2,050,732	2,227,400	2,227,900	177,168	8.64%
HOUSING AND COMMUNITY SVCS FUND						
Intergovernmental revenues						
Federal Grants	525,480	1,192,034	679,293	1,535,300	343,266	28.80%
State Grants	104,991	803,168	250,000	1,003,168	200,000	24.90%
Interest on investments	7,544	-	8,386	-	-	0.00%
Miscellaneous revenues	394,669	-	126,749	4	4	0.00%
Total Housing and Community Svcs Fund	1,032,684	1,995,202	1,064,428	2,538,472	543,270	27.23%
METRO PLANNING ORGANIZATION FUND						
Intergovernmental revenues						
Federal Grants	397,201	897,579	412,207	966,290	68,711	7.66%
Miscellaneous revenues	5,820	255,000	5,000	560,000	305,000	119.61%
Total Metro Planning Organization Fund	403,021	1,152,579	417,207	1,526,290	373,711	32.42%
EDA REVOLVING LOAN FUND						
Intergovernmental revenues						
Federal Grants	-	-	220,000	-	-	0.00%
Interest on investments	-	2,201	550	-	(2,201)	-100.00%
Miscellaneous revenues	-	-	-	50,123	50,123	0.00%
Total EDA Revolving Loan Fund	-	2,201	220,550	50,123	47,922	2177.28%
TOTAL SPECIAL REVENUE FUNDS	31,718,051	35,990,692	37,138,330	41,168,005	5,177,313	14.39%
DEBT SERVICE FUNDS						
SECONDARY PROPERTY TAX FUND						
Interest on investments	77,285	61,800	80,800	64,000	2,200	3.56%
Total Secondary Property Tax Fund	77,285	61,800	80,800	64,000	2,200	3.56%

CITY OF FLAGSTAFF
SUMMARY BY FUND OF REVENUES OTHER THAN PROPERTY TAXES
FISCAL YEARS 2015 AND 2016
(WITH ACTUALS FOR FISCAL YEAR 2014)

SOURCE OF REVENUES	ACTUAL REVENUES 2013-2014	BUDGETED REVENUES 2014-2015	ESTIMATED ACTUAL REVENUES 2014-2015	BUDGETED REVENUES 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
SPECIAL ASSESSMENT BONDS						
Special Assessments	\$ 782,214	735,250	2,022,203	595,250	(140,000)	-19.04%
Interest on investments	1,908	1,830	1,900	1,800	(30)	-1.64%
Total Special Assessment Bonds	784,122	737,080	2,024,103	597,050	(140,030)	-19.00%
TOTAL DEBT SERVICE FUNDS	861,407	798,880	2,104,903	661,050	(137,830)	-17.25%
CAPITAL PROJECTS FUNDS						
G.O. BONDS PROJECTS						
Intergovernmental revenues						
Federal Grants	6,000,000	-	-	-	-	0.00%
Interest on investments	14,661	1,880	6,140	630	(1,250)	-66.49%
Miscellaneous Revenue	91,106	9,620,000	-	9,620,000	-	0.00%
Total G.O. Bonds Projects	6,105,767	9,621,880	6,140	9,620,630	(1,250)	-0.01%
MUNICIPAL FACILITIES CORP						
Intergovernmental revenues						
Grant Revenues	231,475	4,394,303	4,394,303	454,197	(3,940,106)	-89.66%
Miscellaneous Revenue	-	635,866	630,000	-	(635,866)	-100.00%
Total Municipal Facilities Corp	231,475	5,030,169	5,024,303	454,197	(4,575,972)	
TOTAL CAPITAL PROJECTS FUNDS	6,337,242	14,652,049	5,030,443	10,074,827	(4,577,222)	-31.24%
PERMANENT FUNDS						
PERPETUAL CARE FUND						
Contributions	18,700	22,746	15,580	23,201	455	2.00%
Interest on investments	1,669	2,087	1,682	2,108	21	1.01%
Total Perpetual Care Fund	20,369	24,833	17,262	25,309	476	1.92%
TOTAL PERMANENT FUNDS	20,369	24,833	17,262	25,309	476	1.92%
ENTERPRISE FUNDS						
WATER, WASTEWATER AND RECLAIMED WATER FUND						
OPERATING FUND						
Intergovernmental revenues						
State Grants	-	60,000	60,000	-	(60,000)	-100.00%
Federal Grants	228,679	370,000	332,408	288,394	(81,606)	-22.06%
Water Revenues	14,455,312	16,693,691	15,173,992	16,006,620	(687,071)	-4.12%
Wastewater Revenues	9,826,213	10,885,934	9,849,952	11,360,639	474,705	4.36%
Interest on investments	136,384	116,150	144,000	151,440	35,290	30.38%
Miscellaneous revenues	133,501	-	283,933	200,000	200,000	0.00%
Total Water, Wastewater & Reclaimed Wtr Fund	24,780,089	28,125,775	25,844,285	28,007,093	(118,682)	-0.42%
AIRPORT FUND						
OPERATING FUND						
Intergovernmental revenues						
Federal Grants	2,570,524	7,256,464	1,865,768	2,850,910	(4,405,554)	-60.71%
State Grants	261,838	263,210	91,587	89,825	(173,385)	-65.87%
Airport Revenues	1,734,537	1,656,120	1,662,795	1,669,974	13,854	0.84%
Interest on investments	5,142	2,010	1,613	3,692	1,682	83.68%
Miscellaneous revenues	221,261	239,410	183,806	68,026	(171,384)	-71.59%
Total Airport Fund	4,793,302	9,417,214	3,805,569	4,682,427	(4,734,787)	-50.28%
SOLID WASTE						
Solid Waste Revenues	11,523,489	11,788,712	11,451,904	11,760,588	(28,124)	-0.24%
Interest on investments	58,144	66,500	66,500	67,830	1,330	2.00%
Miscellaneous revenues	69,240	-	-	-	-	0.00%
Total Environmental Services Fund	11,650,873	11,855,212	11,518,404	11,828,418	(26,794)	-0.23%

CITY OF FLAGSTAFF
SUMMARY BY FUND OF REVENUES OTHER THAN PROPERTY TAXES
FISCAL YEARS 2015 AND 2016
(WITH ACTUALS FOR FISCAL YEAR 2014)

SOURCE OF REVENUES	ACTUAL REVENUES 2013-2014	BUDGETED REVENUES 2014-2015	ESTIMATED ACTUAL REVENUES 2014-2015	BUDGETED REVENUES 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
SUSTAINABILITY AND ENVIRONMENTAL MGMT						
Environmental Services Revenues	\$ 1,028,222	1,002,819	1,011,819	1,029,029	26,210	2.61%
Interest on investments	588	-	1,850	1,800	1,800	0.00%
Miscellaneous revenues	51,898	50,140	50,140	500	(49,640)	-99.00%
Total Environmental Services Fund	1,080,708	1,052,959	1,063,809	1,031,329	(21,630)	-2.05%
STORMWATER UTILITY						
Intergovernmental revenues						
Federal Grants	-	200,000	-	225,000	25,000	12.50%
Stormwater Utility Revenues	1,465,523	1,507,789	1,470,418	1,515,588	7,799	0.52%
Interest on investments	6,013	1,424	2,808	1,089	(335)	-23.53%
Miscellaneous revenues	641	-	749	-	-	0.00%
Total Stormwater Utility Fund	1,472,177	1,709,213	1,473,975	1,741,677	32,464	1.90%
FLAGSTAFF HOUSING AUTHORITY FUNDS						
Intergovernmental revenues						
Federal Grants	4,303,668	5,332,047	4,682,120	5,636,039	303,992	5.70%
Rents and Other Tenant Income	993,909	956,633	968,732	996,000	39,367	4.12%
Miscellaneous revenues	433,018	523,650	416,753	436,034	(87,616)	-16.73%
Total Stormwater Utility Fund	5,730,595	6,812,330	6,067,605	7,068,073	255,743	3.75%
TOTAL ENTERPRISE FUNDS	49,507,744	58,972,703	49,773,647	54,359,017	(4,613,686)	-7.82%
TOTAL REVENUES	<u>\$ 134,945,744</u>	<u>157,265,752</u>	<u>140,919,556</u>	<u>156,005,970</u>	<u>(1,259,782)</u>	-0.80%

CITY OF FLAGSTAFF
SUMMARY BY FUNDING OF OTHER FINANCING SOURCES
AND INTERFUND TRANSFERS
FISCAL YEAR 2015-2016

FUND	PROCEEDS FROM OTHER FINANCING SOURCES	INTERFUND TRANSFERS	
		IN	OUT
GENERAL FUND	\$ -	3,511,286	7,987,026
SPECIAL REVENUE FUNDS			
Library Fund	-	1,641,360	250,000
Highway User Revenue Fund	-	10,026,612	13,000
Transportation Fund	10,000,000	-	11,273,012
FUTS Fund	-	1,550,000	-
Beautification Fund	-	-	420,527
Economic Development	-	251,000	-
Tourism Fund	-	-	67,738
Recreation-BBB Fund	-	-	2,357,989
Housing & Community Services	-	-	-
MPO	-	22,500	-
Total Special Revenue Funds	10,000,000	13,491,472	14,382,266
DEBT SERVICE FUNDS			
Secondary Property Tax Fund	-	-	7,436,600
G.O. Bond Fund	-	7,436,600	-
Total Debt Service Funds	-	7,436,600	7,436,600
CAPITAL PROJECTS FUNDS			
G.O. Bond Funded Projects	19,700,000	4,710,000	-
Non G.O. Bond Funded Projects	7,442,245	2,280,000	-
Total Capital Projects Funds	27,142,245	6,990,000	-
ENTERPRISE FUNDS			
Water, Wastewater & Reclaimed Water Fund	559,996	1,262,979	1,317,438
Stormwater Utility	-	3,331,966	405,817
Airport Fund	-	461,000	-
Solid Waste Fund	4,950,000	-	4,994,466
Sustainability and Environmental Mgmt	-	209,788	229,678
Flagstaff Housing Authority	-	58,200	-
Total Enterprise Funds	5,509,996	5,323,933	6,947,399
TOTAL ALL FUNDS	\$ 42,652,241	36,753,291	36,753,291

CITY OF FLAGSTAFF
SUMMARY BY DIVISION OF EXPENDITURES/EXPENSES WITHIN EACH FUND
COMPARISON OF FISCAL YEAR 2015 AND 2016
(WITH ACTUAL FOR FISCAL YEAR 2014)

FUND/DIVISION	ACTUAL EXPENDITURES/ EXPENSES 2013-2014	ADOPTED BUDGETED EXPENSE 2014-2015	ESTIMATED ACTUAL EXPENSES 2014-2015	PROPOSED BUDGETED EXPENDITURE/ EXPENSE 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
GENERAL FUND						
General Administration	\$ 8,003,390	9,115,681	8,859,100	9,914,497	798,816	8.8%
Community Development	4,126,187	4,350,389	4,288,889	4,294,597	(55,792)	(1.3%)
Management Services	3,185,950	3,357,893	3,356,893	3,633,521	275,628	8.2%
Fire	9,499,943	10,740,696	10,410,696	12,083,375	1,342,679	12.5%
Police	17,091,853	18,378,086	18,333,086	20,237,676	1,859,590	10.1%
Public Works	8,308,989	11,344,740	8,659,930	12,049,297	704,557	6.2%
Economic Vitality	226,897	464,303	464,303	174,071	(290,232)	(62.5%)
Non-departmental	(1,070,830)	(1,810,489)	(2,468,269)	(2,053,888)	(243,399)	13.4%
Contingency	67,643	1,475,000	-	625,000	(850,000)	(57.6%)
Total General Fund	49,440,022	57,416,299	51,904,628	60,958,146	3,541,847	6.2%
SPECIAL REVENUE FUNDS						
LIBRARY FUND						
General Administration	148,678	176,085	176,085	191,757	15,672	8.9%
Management Services	4,803,570	7,182,596	4,706,204	6,879,938	(302,658)	(4.2%)
Public Works	81,044	68,965	68,965	94,591	25,626	37.2%
Economic Vitality	14,800	14,909	14,909	17,485	2,576	17.3%
Non-departmental	89,293	77,765	77,765	73,142	(4,623)	(5.9%)
Contingency	-	100,000	-	100,000	-	0.0%
	5,137,385	7,620,320	5,043,928	7,356,913	(263,407)	(3.5%)
HIGHWAY USER REVENUE FUND						
General Administration	109,645	151,660	151,660	155,859	4,199	2.8%
Community Development	2,981,067	7,929,401	1,940,170	9,565,074	1,635,673	20.6%
Management Services	66,108	91,171	91,171	96,769	5,598	6.1%
Public Works	7,669,163	10,639,677	9,427,957	9,097,549	(1,542,128)	(14.5%)
Economic Vitality	13,892	14,496	14,496	13,729	(767)	(5.3%)
Non-departmental	88,851	116,557	116,557	126,761	10,204	8.8%
Contingency	-	100,000	-	100,000	-	0.0%
	10,928,726	19,042,962	11,742,011	19,155,741	112,779	0.6%
TRANSPORTATION FUND						
General Administration	41,592	39,239	39,239	40,595	1,356	3.5%
Community Development	-	-	-	1,525,600	1,525,600	0.0%
Management Services	251,419	265,318	265,318	302,624	37,306	14.1%
Public Works	-	12,822	3,562,822	6,110,000	6,097,178	47,552.5%
Economic Vitality	5,455	2,952	2,952	1,643	(1,309)	(44.3%)
Non-departmental	6,652,941	5,738,735	6,009,830	7,444,147	1,705,412	29.7%
Contingency	-	2,000,000	-	-	(2,000,000)	(100.0%)
	6,951,407	8,059,066	9,880,161	15,424,609	7,365,543	91.4%
FUTS FUND						
Community Development	344,773	2,871,134	548,710	3,758,780	887,646	30.9%
	344,773	2,871,134	548,710	3,758,780	887,646	30.9%
BEAUTIFICATION FUND						
Economic Vitality	464,966	3,168,036	856,554	3,950,191	782,155	24.7%
Reserve/Contingency	120	10,000	-	10,000	-	0.0%
	465,086	3,178,036	856,554	3,960,191	782,155	24.6%
ECONOMIC DEVELOPMENT FUND						
Economic Vitality	843,661	985,206	1,040,856	1,314,079	328,873	33.4%
Reserve/Contingency	(543)	170,070	-	45,000	(125,070)	(73.5%)
	843,118	1,155,276	1,040,856	1,359,079	203,803	17.6%
TOURISM FUND						
Economic Vitality	1,999,754	1,942,800	1,921,800	2,042,287	99,487	5.1%
Reserve/Contingency	680	50,000	-	70,000	20,000	40.0%
	2,000,434	1,992,800	1,921,800	2,112,287	119,487	6.0%

CITY OF FLAGSTAFF
SUMMARY BY DIVISION OF EXPENDITURES/EXPENSES WITHIN EACH FUND
COMPARISON OF FISCAL YEAR 2015 AND 2016
(WITH ACTUAL FOR FISCAL YEAR 2014)

FUND/DIVISION	ACTUAL EXPENDITURES/ EXPENSES 2013-2014	ADOPTED BUDGETED EXPENDITURE/ EXPENSE 2014-2015	ESTIMATED ACTUAL EXPENDITURES/ EXPENSES 2014-2015	PROPOSED BUDGETED EXPENDITURE/ EXPENSE 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
ARTS AND SCIENCE FUND						
Economic Vitality	\$ 425,394	621,023	515,123	815,044	194,021	31.2%
Reserve/Contingency	-	10,000	-	10,000	-	0.0%
	<u>425,394</u>	<u>631,023</u>	<u>515,123</u>	<u>825,044</u>	<u>194,021</u>	<u>30.7%</u>
RECREATION-BBB FUND						
Public Works	26,576	2,664,460	315,444	2,469,216	(195,244)	(7.3%)
HOUSING AND COMMUNITY SERVICES FUND						
Community Development	854,884	2,783,066	999,527	3,332,845	549,779	19.8%
Non-departmental	37,412	39,966	26,209	89,405	49,439	123.7%
	<u>892,296</u>	<u>2,823,032</u>	<u>1,025,736</u>	<u>3,422,250</u>	<u>599,218</u>	<u>21.2%</u>
METRO PLANNING ORG FUND						
Community Development	376,222	903,425	463,425	995,618	92,193	10.2%
Non-departmental	24,827	21,654	21,654	53,172	31,518	145.6%
Contingency	-	250,000	-	500,000	250,000	100.0%
	<u>401,049</u>	<u>1,175,079</u>	<u>485,079</u>	<u>1,548,790</u>	<u>373,711</u>	<u>31.8%</u>
EDA REVOLVING LOAN FUND						
Economic Vitality	-	220,000	-	270,673	50,673	23.0%
Total Special Revenue Funds	<u>28,416,244</u>	<u>51,433,188</u>	<u>33,375,402</u>	<u>61,663,573</u>	<u>10,230,385</u>	<u>19.9%</u>
DEBT SERVICE FUNDS						
GENERAL OBLIGATION BONDS FUND						
Non-departmental	722,784	7,496,194	6,016,461	7,436,600	(59,594)	(0.8%)
SPECIAL ASSESSMENT BONDS FUND						
Non-departmental	593,000	740,850	2,143,228	600,850	(140,000)	(18.9%)
Total Debt Service Funds	<u>1,315,784</u>	<u>8,237,044</u>	<u>8,159,689</u>	<u>8,037,450</u>	<u>(199,594)</u>	<u>(2.4%)</u>
CAPITAL PROJECT FUNDS						
G.O. BONDS FUNDED PROJECTS FUND						
Non-departmental	17,140,982	32,724,917	3,090,783	31,940,644	(784,273)	(2.4%)
MUNICIPAL FACILITIES CORP FUND						
Non-departmental	449,202	14,478,509	7,127,516	7,757,972	(6,720,537)	(46.4%)
Total Capital Projects Funds	<u>17,590,184</u>	<u>47,203,426</u>	<u>10,218,299</u>	<u>39,698,616</u>	<u>(7,504,810)</u>	<u>(15.9%)</u>
ENTERPRISE FUNDS						
WATER, WASTEWATER AND RECLAIMED WATER FUND						
General Administration	621,261	644,370	644,370	614,863	(29,507)	(4.6%)
Management Services	857,869	967,305	967,305	1,063,323	96,018	9.9%
Public Works	48,039	36,925	36,925	43,679	6,754	18.3%
Economic Vitality	44,347	49,629	49,629	43,177	(6,452)	(13.0%)
Utilities	22,470,235	33,474,920	23,997,342	33,899,047	424,127	1.3%
Non-departmental	270,184	370,377	370,377	354,602	(15,775)	(4.3%)
Contingency	171,395	1,800,000	-	1,800,000	-	0.0%
	<u>24,483,330</u>	<u>37,343,526</u>	<u>26,065,948</u>	<u>37,818,691</u>	<u>475,165</u>	<u>1.3%</u>
AIRPORT FUND						
General Administration	61,759	55,329	55,329	55,959	630	1.1%
Management Services	94,151	81,024	81,024	86,555	5,531	6.8%
Public Works	105,195	52,146	52,146	90,405	38,259	73.4%
Economic Vitality	4,681,268	9,513,448	3,430,059	4,940,360	(4,573,088)	(48.1%)
Non-departmental	59,662	44,964	44,964	61,555	16,591	36.9%
Contingency	(20,000)	500,000	-	100,000	(400,000)	(80.0%)
	<u>4,982,035</u>	<u>10,246,911</u>	<u>3,663,522</u>	<u>5,334,834</u>	<u>(4,912,077)</u>	<u>(47.9%)</u>

CITY OF FLAGSTAFF
SUMMARY BY DIVISION OF EXPENDITURES/EXPENSES WITHIN EACH FUND
COMPARISON OF FISCAL YEAR 2015 AND 2016
(WITH ACTUAL FOR FISCAL YEAR 2014)

FUND/DIVISION	ACTUAL EXPENDITURES/ EXPENSES 2013-2014	ADOPTED BUDGETED EXPENDITURE/ EXPENSE 2014-2015	ESTIMATED ACTUAL EXPENDITURES/ EXPENSES 2014-2015	PROPOSED BUDGETED EXPENDITURE/ EXPENSE 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
SOLID WASTE						
General Administration	\$ 425,155	358,624	358,624	322,088	(36,536)	(10.2%)
Management Services	323,645	349,621	349,621	334,415	(15,206)	(4.3%)
Public Works	8,218,942	11,327,142	8,938,142	13,015,777	1,688,635	14.9%
Economic Vitality	44,291	35,471	35,471	29,313	(6,158)	(17.4%)
Non-departmental	282,110	272,975	272,975	195,906	(77,069)	(28.2%)
Contingency	26,857	612,000	-	612,000	-	0.0%
	9,321,000	12,955,833	9,954,833	14,509,499	1,553,666	12.0%
SUSTAINABILITY AND ENVIRONMENTAL MGMT						
General Administration	18,020	41,635	41,635	65,389	23,754	57.1%
Management Services	21,367	19,186	19,186	37,380	18,194	94.8%
Public Works	790,326	944,622	895,984	992,374	47,752	5.1%
Economic Vitality	4,628	1,735	1,735	2,876	1,141	65.8%
Non-departmental	18,560	10,905	10,905	15,234	4,329	39.7%
Contingency	-	30,000	-	30,000	-	0.0%
	852,901	1,048,083	969,445	1,143,253	95,170	9.1%
STORMWATER UTILITY FUND						
General Administration	37,905	38,614	38,614	39,650	1,036	2.7%
Management Services	53,860	42,471	42,471	44,800	2,329	5.5%
Public Works	9,626	11,663	11,663	4,613	(7,050)	(60.4%)
Economic Vitality	2,035	2,183	2,183	3,101	918	42.1%
Utilities	1,751,086	5,132,723	1,135,453	5,224,050	91,327	1.8%
Non-departmental	14,022	18,312	18,312	15,609	(2,703)	(14.8%)
Contingency	7,033	10,000	-	10,000	-	0.0%
	1,875,567	5,255,966	1,248,696	5,341,823	85,857	1.6%
FLAGSTAFF HOUSING AUTHORITY						
Community Development	6,134,741	6,042,876	5,883,047	6,210,462	167,586	2.8%
Contingency	-	1,001,250	-	1,001,250	-	0.0%
	6,134,741	7,044,126	5,883,047	7,211,712	167,586	
Total Enterprise Funds	47,649,574	73,894,445	47,785,491	71,359,812	(2,534,633)	(3.4%)
TOTAL ALL FUNDS	\$ 144,411,808	238,184,402	151,443,509	241,717,597	3,533,195	1.5%

CITY OF FLAGSTAFF
BUDGET SUMMARY BY DIVISION OF EXPENDITURES
COMPARISON OF FISCAL YEAR 2015 AND 2016
(WITH ACTUAL FOR FISCAL YEAR 2014)

DIVISION/FUND	ACTUAL EXPENDITURES/ EXPENSES 2013-2014	ADOPTED BUDGETED EXPENDITURE/ EXPENSE 2014-2015	ESTIMATED ACTUAL EXPENDITURES * EXPENSES * 2014-2015	PROPOSED BUDGETED EXPENDITURE/ EXPENSE 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
GENERAL ADMINISTRATION						
General Fund	\$ 8,003,390	9,115,681	8,859,100	9,914,497	798,816	8.8%
Library Fund	148,678	176,085	176,085	191,757	15,672	8.9%
HURF Fund	109,645	151,660	151,660	155,859	4,199	2.8%
Transportation Fund	41,592	39,239	39,239	40,595	1,356	3.5%
Water, Wastewater, and Reclaimed Wtr Fund	621,261	644,370	644,370	614,863	(29,507)	(4.6%)
Airport	61,759	55,329	55,329	55,959	630	1.1%
Solid Waste Fund	425,155	358,624	358,624	322,088	(36,536)	(10.2%)
Sustainability & Environment Mgmt Fund	18,020	41,635	41,635	65,389	23,754	57.1%
Stormwater Utility Fund	37,905	38,614	38,614	39,650	1,036	2.7%
TOTAL	9,467,405	10,621,237	10,364,656	11,400,657	779,420	7.3%
COMMUNITY DEVELOPMENT						
General Fund	4,126,187	4,350,389	4,288,889	4,294,597	(55,792)	(1.3%)
HURF Fund	2,981,067	7,929,401	1,940,170	9,565,074	1,635,673	20.6%
Transportation Fund	-	-	-	1,525,600	1,525,600	0.0%
FUTS Fund	344,773	2,871,134	548,710	3,758,780	887,646	30.9%
Housing and Community Services Fund	854,884	2,783,066	999,527	3,332,845	549,779	19.8%
Metro Planning Organization Fund	376,222	903,425	463,425	995,618	92,193	10.2%
Flagstaff Housing Authority	6,134,741	6,042,876	5,883,047	6,210,462	167,586	2.8%
TOTAL	14,817,874	24,880,291	14,123,768	29,682,976	4,802,685	19.3%
MANAGEMENT SERVICES						
General Fund	3,185,950	3,357,893	3,356,893	3,633,521	275,628	8.2%
Library Fund	4,803,570	7,182,596	4,706,204	6,879,938	(302,658)	(4.2%)
HURF Fund	66,108	91,171	91,171	96,769	5,598	6.1%
Transportation Fund	251,419	265,318	265,318	302,624	37,306	14.1%
Water, Wastewater, and Reclaimed Wtr Fund	857,869	967,305	967,305	1,063,323	96,018	9.9%
Airport Fund	94,151	81,024	81,024	86,555	5,531	6.8%
Solid Waste Fund	323,645	349,621	349,621	334,415	(15,206)	(4.3%)
Sustainability & Environment Mgmt Fund	21,367	19,186	19,186	37,380	18,194	94.8%
Stormwater Utility Fund	53,860	42,471	42,471	44,800	2,329	5.5%
TOTAL	9,657,939	12,356,585	9,879,193	12,479,325	122,740	1.0%
FIRE						
General Fund	9,499,943	10,740,696	10,410,696	12,083,375	1,342,679	12.5%
TOTAL	9,499,943	10,740,696	10,410,696	12,083,375	1,342,679	12.5%
POLICE						
General Fund	17,091,853	18,378,086	18,333,086	20,237,676	1,859,590	10.1%
TOTAL	17,091,853	18,378,086	18,333,086	20,237,676	1,859,590	10.1%
PUBLIC WORKS						
General Fund	8,308,989	11,344,740	8,659,930	12,049,297	704,557	6.2%
Library Fund	81,044	68,965	68,965	94,591	25,626	37.2%
HURF Fund	7,669,163	10,639,677	9,427,957	9,097,549	(1,542,128)	(14.5%)
Transportation Fund	-	12,822	3,562,822	6,110,000	6,097,178	47,552.5%
Recreation-BBB Fund	26,576.00	2,664,460	315,444	2,469,216	(195,244)	(7.3%)
Water, Wastewater, and Reclaimed Wtr Fund	48,039	36,925	36,925	43,679	6,754	18.3%
Airport Fund	105,195	52,146	52,146	90,405	38,259	73.4%
Solid Waste Fund	8,218,942	11,327,142	8,938,142	13,015,777	1,688,635	14.9%
Sustainability & Environment Mgmt Fund	790,326	944,622	895,984	992,374	47,752	5.1%
Stormwater Utility Fund	9,626	11,663	11,663	4,613	(7,050)	(60.4%)
TOTAL	25,257,900	37,103,162	31,969,978	43,967,501	6,864,339	18.5%

CITY OF FLAGSTAFF
BUDGET SUMMARY BY DIVISION OF EXPENDITURES
COMPARISON OF FISCAL YEAR 2015 AND 2016
(WITH ACTUAL FOR FISCAL YEAR 2014)

DIVISION/FUND	ACTUAL EXPENDITURES/ EXPENSES 2013-2014	ADOPTED BUDGETED EXPENDITURE/ EXPENSE 2014-2015	ESTIMATED ACTUAL EXPENSES * 2014-2015	PROPOSED BUDGETED EXPENDITURE/ EXPENSE 2015-2016	CHANGE (BDGT-BDGT)	% CHANGE
ECONOMIC VITALITY						
General Fund	\$ 226,897	464,303	464,303	174,071	(290,232)	(62.5%)
Library Fund	14,800	14,909	14,909	17,485	2,576	17.3%
HURF Fund	13,892	14,496	14,496	13,729	(767)	(5.3%)
Transportation Fund	5,455	2,952	2,952	1,643	(1,309)	(44.3%)
Beautification Fund	464,966	3,168,036	856,554	3,950,191	782,155	24.7%
Economic Development Fund	843,661	985,206	1,040,856	1,314,079	328,873	33.4%
EDA Revolving Loan Fund	-	220,000	-	270,673	50,673	23.0%
Tourism Fund	1,999,754	1,942,800	1,921,800	2,042,287	99,487	5.1%
Arts and Science Fund	425,394	621,023	515,123	815,044	194,021	31.2%
Water, Wastewater, and Reclaimed Wtr Fund	44,347	49,629	49,629	43,177	(6,452)	(13.0%)
Airport Fund	4,681,268	9,513,448	3,430,059	4,940,360	(4,573,088)	(48.1%)
Solid Waste Fund	44,291	35,471	35,471	29,313	(6,158)	(17.4%)
Sustainability & Environment Mgmt Fund	4,628	1,735	1,735	2,876	1,141	65.8%
Stormwater Utility Fund	2,035	2,183	2,183	3,101	918	42.1%
TOTAL	8,771,388	17,036,191	8,350,070	13,618,029	(3,418,162)	(20.1%)
UTILITIES						
Water, Wastewater, and Reclaimed Wtr Fund	22,470,235	33,474,920	23,997,342	33,899,047	424,127	1.3%
Stormwater Utility Fund	1,751,086	5,132,723	1,135,453	5,224,050	91,327	1.8%
TOTAL	24,221,321	38,607,643	25,132,795	39,123,097	515,454	1.3%
NON-DEPARTMENTAL						
General Fund	(1,070,830)	(1,810,489)	(2,468,269)	(2,053,888)	(243,399)	13.4%
Library Fund	89,293	77,765	77,765	73,142	(4,623)	(5.9%)
HURF Fund	88,851	116,557	116,557	126,761	10,204	8.8%
Transportation Fund	6,652,941	5,738,735	6,009,830	7,444,147	1,705,412	29.7%
Housing and Community Services Fund	37,412	39,966	26,209	89,405	49,439	123.7%
Metro Planning Organization Fund	24,827	21,654	21,654	53,172	31,518	145.6%
General Obligation Bonds Fund	722,784	7,496,194	6,016,461	7,436,600	(59,594)	(0.8%)
Special Assessment Bonds Fund	593,000	740,850	2,143,228	600,850	(140,000)	(18.9%)
G.O. Bonds Funded Projects Fund	17,140,982	32,724,917	3,090,783	31,940,644	(784,273)	(2.4%)
Municipal Facilities Corp Fund	449,202	14,478,509	7,127,516	7,757,972	(6,720,537)	(46.4%)
Water, Wastewater, and Reclaimed Wtr Fund	270,184	370,377	370,377	354,602	(15,775)	(4.3%)
Airport Fund	59,662	44,964	44,964	61,555	16,591	36.9%
Solid Waste Fund	282,110	272,975	272,975	195,906	(77,069)	(28.2%)
Sustainability & Environment Mgmt Fund	18,560	10,905	10,905	15,234	4,329	39.7%
Stormwater Utility Fund	14,022	18,312	18,312	15,609	(2,703)	(14.8%)
TOTAL	25,373,000	60,342,191	22,879,267	54,111,711	(6,230,480)	(10.3%)
RESERVES/CONTINGENCIES						
General Fund	67,643	1,475,000	-	625,000	(850,000)	(57.6%)
Library Fund	-	100,000	-	100,000	-	0.0%
HURF Fund	-	100,000	-	100,000	-	0.0%
Transportation Fund	-	2,000,000	-	-	(2,000,000)	(100.0%)
Beautification Fund	120	10,000	-	10,000	-	0.0%
Economic Development Fund	(543)	170,070	-	45,000	(125,070)	(73.5%)
Tourism Fund	680	50,000	-	70,000	20,000	40.0%
Arts and Science Fund	-	10,000	-	10,000	-	0.0%
Metro Planning Organization Fund	-	250,000	-	500,000	250,000	100.0%
Water, Wastewater, and Reclaimed Wtr Fund	171,395	1,800,000	-	1,800,000	-	0.0%
Airport Fund	(20,000)	500,000	-	100,000	(400,000)	(80.0%)
Solid Waste Fund	26,857	612,000	-	612,000	-	0.0%
Stormwater Utility Fund	7,033	10,000	-	10,000	-	0.0%
Sustainability & Environmental Mgmt Fund	-	30,000	-	30,000	-	0.0%
Flagstaff Housing Authority Fund	-	1,001,250	-	1,001,250	-	0.0%
TOTAL	253,185	8,118,320	-	5,013,250	(3,105,070)	(38.2%)
ALL FUNDS TOTAL	\$ 144,411,808	238,184,402	151,443,509	241,717,597	3,533,195	1.5%

* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

CITY OF FLAGSTAFF
FULL-TIME EMPLOYEE AND PERSONNEL COMPENSATION
FISCAL YEAR 2016

FUND	FULL-TIME EQUIVALENTS (FTE) 2016	EMPLOYEE SALARIES AND HOURLY COSTS 2016	RETIREMENT COSTS 2016	HEALTHCARE COSTS 2016	OTHER BENEFIT COSTS 2016	TOTAL ESTIMATED PERSONNEL COMPENSATION 2016
GENERAL FUND	543.01	\$ 32,154,703	\$ 8,603,876	\$ 3,484,384	\$ 2,715,664 =	\$ 46,958,627
SPECIAL REVENUE FUNDS						
Library	53.43	2,305,349	235,514	330,692	176,429 =	3,047,984
HURF	35.02	1,654,502	167,095	187,475	224,615	2,233,687
Beautification	1.70	126,550	14,515	13,721	9,828	164,614
Economic Development	2.75	169,468	19,439	21,611	13,569	224,087
Tourism	14.28	721,141	76,677	89,386	55,928	943,132
Arts and Science	0.40	29,792	3,417	3,589	2,253	39,051
Housing and Comm Services	1.00	52,784	6,054	398	3,828	63,064
Metro Planning Organization	2.88	258,355	22,339	20,798	16,346	317,838
Total Special Revenue Funds	111.46	5,317,941	545,050	667,670	502,796 =	7,033,457
ENTERPRISE FUNDS						
Water, Wastewater and Reclaimed Water	65.75	3,957,811	444,836	454,616	367,736 =	5,224,999
Airport	9.75	499,323	209,569	59,116	37,569	805,577
Stormwater	4.75	346,641	36,490	30,432	27,389	440,952
Solid Waste	47.00	2,549,320	274,283	330,404	268,404	3,422,411
Sustainability & Environmental Mgmt	9.25	482,669	54,216	65,449	43,662	645,996
Flagstaff Housing Authority	22.00	1,253,600	143,788	149,066	98,361	1,644,815
Total Enterprise Funds	158.50	9,089,364	1,163,182	1,089,083	843,121 =	12,184,750
CAPITAL PROJECTS FUNDS						
G.O. Bond Funded Projects	1.50	299,199	67,168	10,399	6,027 =	382,793
Total Special Revenue Funds	1.50	299,199	67,168	10,399	6,027 =	382,793
TOTAL ALL FUNDS	814.47	\$ 46,861,207	\$ 10,379,276	\$ 5,251,536	\$ 4,067,608 =	\$ 66,559,627

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Elizabeth A. Burke, City Clerk
Date: 05/27/2015
Meeting Date: 06/02/2015



TITLE

Possible Future Agenda Item: Request by Mayor Nabours re Status on Efforts to Address Aggressive Solicitation

RECOMMENDED ACTION:

Council direction

EXECUTIVE SUMMARY:

Mayor Nabours has asked that the above-referenced issue be placed on the agenda as a possible future agenda item to see if there are three members of the City Council interested in bringing it back for discussion/action at a future meeting.

INFORMATION:

COUNCIL GOALS:

3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics

Attachments: